STANFORD UNIVERSITY
OFFICE OF THE UNIVERSITY REGISTRAR
STANFORD, CA 94305-6032

Name: Krantz,Matthew Louis
Student ID: 05786653

Johanna Metzgar
Registrar

2020-2021 Spring

Course		Title	Attempted	Earned	Grade
LAW	914A	JUELSGAARD INTELLECTUAL PROPERTY AND INNOVATION CLINIC: CLINICAL PRACTICE Phillip Malone	4.00	4.00	H
LAW	914B	JUELSGAARD INTELLECTUAL PROPERTY AND INNOVATION CLINIC: CLINICAL METHODS Phillip Malone	4.00	4.00	P
LAW	914C	JUELSGAARD INTELLECTUAL PROPERTY AND INNOVATION CLINIC: CLINICAL COURSEWORK Phillip Malone	4.00	4.00	H

2021-2022 Autumn

Course		Title	Attempted	Earned	Grade
LAW	1029	TAXATION I Joseph Bankman	4.00	4.00	P
LAW	4017	ADVANCED TORTS: DEFAMATION, PRIVACY, AND EMOTIONAL DISTRESS Robert Rabin	3.00	3.00	H
LAW	6001	LEGAL ETHICS Norman Spaulding	3.00	3.00	P
LAW	7821	NEGOTIATION Colleen Popken; Janet Martinez	3.00	3.00	MP

2021-2022 Winter

Course		Title	Attempted	Earned	Grade
LAW	914	ADVANCED JUELSGAARD INTELLECTUAL PROPERTY AND INNOVATION CLINIC Phillip Malone	3.00	3.00	H
LAW	2403	FEDERAL COURTS Norman Spaulding	4.00	4.00	P
LAW	7051	LOCAL GOVERNMENT LAW Richard Ford	3.00	3.00	P

2021-2022 Spring

Course		Title	Attempted	Earned	Grade
LAW	1013	CORPORATIONS Sarath Sanga	4.00	4.00	H
LAW	1043	BLOCKCHAIN AND CRYPTOCURRENCIES: LAW, ECONOMICS, BUSINESS AND POLICY Jeff Strnad	4.00	4.00	MP
LAW	7010A	CONSTITUTIONAL LAW: THE FOURTEENTH AMENDMENT Goodwin Liu	3.00	3.00	H

END OF TRANSCRIPT

Send To: Matt Krantz
USA

Stanford Law School

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Stanford Law School's Grading System

In the fall of 2008, Stanford Law School adopted the following grading system for all courses:

H	Honors	Exceptional work, significantly superior to the average performance at the school
P	Pass	Representing successful mastery of the course material
MP	Mandatory Pass	Representing P or better work. (No Honors grades are available for Mandatory P classes.)
MPH	Mandatory Pass - Public Health Emergency*	Representing P or better work. (No Honors grades are available for Mandatory P classes.)
R	Restricted Credit	Representing work that is unsatisfactory
F	Fail	Representing work that does not show minimally adequate mastery of the material
L	Pass	Student has passed the class. Exact grade yet to be reported
I	Incomplete	
N	Continuing Course	
[blank]		Grading Deadline has not yet passed. Grade has yet to be reported.
GNR	Grade Not Reported	Grading Deadline has passed. Grade has yet to be reported.

In addition to the above grades, professors may award class prizes to recognize extraordinary performance in a particular course. These prizes are rare. No more than one prize may be awarded for every 15 students enrolled in the course. Outside of first-year required courses, awarding these prizes is at the discretion of the instructor. The five prizes, which will be noted on student transcripts, are:

- the Gerald Gunther Prize for first-year Legal Research & Writing,
- the Gerald Gunther Prize for exam classes,
- the John Hart Ely Prize for paper classes,
- the Hilmer Oehlmann, Jr Award for Federal Litigation or Federal Litigation in a Global Context, and
- the Judge Thelton E. Henderson Prize for clinical courses.

Interpreting Stanford's Grades:
Grading policies vary significantly from school to school. Other schools that have a similar system impose no limits on the number of Honors grades awarded. As a result, one might see 70-80% of a class receiving Honors. Stanford Law School, by comparison, imposes strict limitations on the percentage of Honors grades that professors may award. These vary slightly depending on the class, but employers should expect to see approximately one-third of our students receiving Honors in any exam class. For this reason, we strongly encourage employers who use grades as part of their hiring criteria to set standards specifically for Stanford students, and to consider grades in the context of other information about a candidate, such as faculty recommendations, pre-law school academic and professional experience, law school activities, and an interviewer's own impressions of the individual.

* The coronavirus outbreak caused substantial disruptions to academic life beginning in mid-March 2020, during the Winter Quarter exam period. Due to these circumstances, SLS used a Mandatory Pass-Public Health Emergency/Restricted Credit/Fail grading scale for all exam classes held during Winter Quarter 2020 and all classes held during Spring Quarter 2020.

For non-exam classes held during Winter Quarter (e.g., policy practicums, clinics, and paper classes), students could elect to receive grades on the normal H/P/Restricted Credit/Fail scale or the Mandatory Pass-Public Health Emergency/Restricted Credit/Fail scale.

Updated May 2020

Anne Joseph O'Connell
Adelbert H. Sweet Professor of Law
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April 26, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I write, with the greatest enthusiasm, to recommend Matthew (Matt) Krantz for a district court clerkship in your chambers. Matt earned a rare, straight Honors record in the graded parts of the required first-year curriculum (along with a prize in Torts) and a near Honors record in the fall of his second year, including in my challenging Administrative Law class (just missing a prize). Stanford Law School's grading curve is far stricter, with fewer Honors grades permitted, than the grading system at our peer institutions, Yale and Harvard. Naturally, Matt's grades had to dip somewhat once he became a Managing Editor of the *Stanford Law Review* in the winter quarter of his second year due to the demanding nature of the position—a full-time job of Blue booking, cite checking, and line editing, along with the creation of the Candidate Exercise for current first-year students.

Matt's legal acumen, writing talent, and attention to detail, along with four years of professional work experience between college and law school and two years of post-law school practice (including as a clerk for Judge Cheryl Ann Krause next year), strike me as the perfect combination for a law clerk in a fast-paced district court chambers.

I met Matt in September 2020 when he and sixty-three other students enrolled in my Administrative Law class, which was primarily taught on Zoom due to the pandemic (with some small in-person sessions). The course addresses the structure of administrative agencies and their place in a governing scheme of separated but overlapping powers; delegation of authority to agencies, types and requirements of agency decision-making; availability and scope of judicial review of agency action (and inaction); and other forms of agency oversight. It examines a range of policy areas, including the environment, national security, health care, food and drugs, and telecommunications. It is not an easy class. In addition to the final examination, I require students, on their own or in a small group, to complete a response paper on class material (with the option of doing a second and having the higher score count) as well as to draft a comment to a particular open regulatory proceeding and reflection essay on the comment.

Matt and two classmates jumped right into the response paper topics, evaluating Judge Williams's proposal that "where there was no indication that the plaintiff had participated in the rulemaking in any way," the court should not determine that the plaintiff's arguments in litigation against the rulemaking are waived (assuming they are timely brought) as well as predicting how agencies would change their practices under such a rule. In a good essay, they argued: "Waiving the comment requirement for litigation risks undermining predictability and incentivizing actors to forgo participation in rulemaking. Nevertheless, we believe that Judge Williams's proposal is desirable because it addresses distributive issues and could expand access to rulemaking generally." While the essay did mistakenly assume (as almost every group does on this question) that sophisticated parties would skip commenting to take advantage of the proposal (but it is better to get what you want at the agency level than having to litigate), it shined in using class material to consider how under-resourced parties "might lack the resources to anticipate 'logical outgrowths' of the NPRM …. given that 'reasonable foreseeability' is based on knowledge of regulatory insiders" as well as noting how agencies could "expan outreach to impacted groups."

For the second assignment, Matt's group savvily took on the perspective of the fictional Vermont Yankees Loggers Association, in their words, "a key part of President Trump's base," to comment on the Department of Labor's 2020 proposed rule on how to determine independent contractor status under the Fair Labor Standards Act. In addition to nicely raising concerns with the proposed rule itself and the agency's justifications, their comment proposed a compelling alternative: "We therefore ask Labor to reconsider its interpretation of the 'economic reality' test—especially as applied to loggers and other industrial workers—and instead weigh all factors equally. At the very least, in light of the Association's reliance, we ask that Labor preserve [the relevant regulation] in its current form." The well-written and smartly structured reflection essay discussed their persuasive, litigation, and political strategies, drawing from an impressive range of class material and outside research (the latter was not required).

In the primary evaluative tool in my class, a timed and difficult take-home examination, Matt shined, submitting the fourth best examination in an extremely talented class. He excelled on both doctrinal questions—one based on the Trump Administration's Schedule F directive (to move many agency workers from the competitive service to a new series in the excepted service, which would lack the civil service's removal protections) that drew on constitutional and statutory interpretation issues and one involving a hypothetical interim final rule on procedures for issuing guidance and sunsets for economically significant rules that required complex analysis under the Administrative Procedure Act (APA) and consideration of non-legal arguments. He also wrote a stellar answer to the final (more policy-based) question—whether courts should apply more scrutiny under section 706 of the APA to policy determinations that depend, at least in part, on cost-benefit analysis and whether scrutiny of such policy determinations should vary by agency type (e.g., cabinet department, independent regulatory commission).

Matt's exceptional examination showed that he not only understood complex legal doctrine, but that he could apply it in snappy, succinct prose. I asked to use about half of his exam answers in the packet of model responses. Combining his writing assignments and his final examination, Matt earned the highest Honors grade in the class that did not receive a prize.

In gathering information for this letter, I asked Matt to estimate the time commitment of being a Managing Editor of the *Stanford Law Review*. I assumed that the commitment was meaningful, but I was shocked at the responsibilities, as Matt never complained or seemed stressed in our multiple conversations during the period he served in the role. In the spring of his second year, he completed three "pre-galley" reviews—for each, he Blue booked, cite checked, and line edited an entire Article in under ten days (40-60 hours)—and two "post-galley" reviews (20-30 hours). He also co-created with the other Managing Editors the Candidate Exercise (20 hours weekly for the peak period) that first-year students completed as part of the journal's membership selection process. Most of his third year kept up this pace. I smiled when I saw in his background materials for this letter that he supervised several dozen counselors in charge of 100 eighth grade girls in an eight-week overnight camp program in college. He has the personality to carry that off (I do not).

In sum, Matt would be a tremendous law clerk. He not only thinks clearly (after all, he majored in computer science and programmed professionally), but also writes well. And he is an eagle-eyed editor. If you should need any additional information, please contact me at (650) 736-8721 or at ajosephoconnell@law.stanford.edu. I would be delighted to talk more about Matt.

Sincerely,

/s/ Anne Joseph O'Connell
Adelbert H. Sweet Professor of Law

Law Clerk, Judge Stephen F. Williams
Law Clerk, Justice Ruth Bader Ginsburg

David Freeman Engstrom
LSVF Professor in Law
Co-Director, Deborah L. Rhode Center on the Legal Profession
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March 23, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

Matt Krantz is a gem—a smart, funny, unassuming talent. From Civil Procedure to my class on AI and Rule of Law, Matt never failed to impress with his sharp analytics, his good humor, and his pitch-perfect professionalism. But what distinguishes Matt from many other candidates you'll see is something that is harder to capture: Matt is a gamer. He was always willing to try out an answer to an especially tough question in class when there are few other takers. He always showed up at optional discussion sections. And he was always at the podium after class, even when he didn't have a question, so he could listen in and soak up what others were thinking about. There's just a guileless and refreshing desire to learn and share ideas with others that I found quite distinctive and remarkable. Matt's mix of talent, energy, and intellectual curiosity will make him a terrific and trusted law clerk. I hope you'll hire him.

Matt was simply sensational in 1L Civil Procedure—one of the intellectual leaders of the class. He made frequent, insightful, and good-humored contributions that demonstrated a natural ability to do what I spend so much time trying to get 1Ls to do: rooting arguments first and foremost in the text of rules and in cases, rather than intuiting answers to questions or moving straight to policy arguments (where they often feel more at home). From the start, Matt modeled that skill for the other students and raised the standard of the entire group.

Matt also showed all the markers of a talented litigator in the making. He was especially good, and often exceptional, when thinking through strategic litigation questions. A prime example was when he led the class through the removal-and-transfer sequence of *Pipe Aircraft v. Reyno*, explaining at each step why the defendants did what they did. Doing so requires synthesis of a bunch of topics covered to that point in the course: personal jurisdiction, subject matter jurisdiction and removal, and the venue statutes. Matt covered each flawlessly—and he also thought beyond the doctrine to the practical stakes. Thinking about litigation strategy comes easy to him—and I'm sure that full-on litigation judgment is not far behind. That skill will surely serve him well in chambers.

Matt's exam did not disappoint. He finished fourth best in a class of 30, earning a strong Honors grade, reserved for the top one-third of a class at Stanford, and only narrowly missing a "book prize," awarded to the very top performers in each course. His exam showed mastery on both the issue spotter section and an open-ended essay question—more open-ended than I usually give—that asked students to state a view on trans-substantivity in procedure.

Two quarters later, during his 1L spring, Matt enrolled in AI and Rule of Law, a course I co-taught with Marietje Schaake, a senior lecturer at Stanford, a former member of the EU Parliament, and a leading European voice on tech regulation. Based at the Law School, the class featured a dense mix of theory, institutional analysis, technical features of artificial intelligence, and case law. Each class session was trained on a different aspect of the legal and governance challenges posed by AI. Concrete examples and applications spanned subject areas (government and court use of AI, data privacy, autonomous weapons, etc.) and the globe (the U.S., Europe, China, and beyond). As such, the course rewarded careful integration of course readings pitched at very different levels of abstraction. Some of the law students who took the course, trained to analyze legal doctrine, lacked the intellectual breadth to make connections across the far-ranging course material. And some of the students with graduate school backgrounds could not master the arcane details of particular institutional contexts or think in concrete terms about how governance or legal design choices impact ground-level realities. Very few students, in other words, displayed mastery of trees *and* forest. Matt navigated both with ease, as he demonstrated time and again during his regular attendance with a group of particularly active students at optional discussion sections.

Matt's talents were also evident in his research paper, an astute and carefully written exploration of how the use of new algorithmic tools within the legal system—from risk assessment tools for bail, sentencing, and parole decisions on the criminal side of the system to tools that lawyers are increasingly relying upon on the civil side—might reshape law by pushing it toward a form of "codified" justice. His paper, however, went beyond these ideas and thought through, in a concrete and useful way, how new forms of oversight and validation of such tools might be necessary to safeguard against undesirable evolutionary paths. The paper wonderfully reflected the mind of a law student grappling with a set of deep jurisprudential questions, but with a practical side that clearly grew out of Matt's time working in tech prior to law school. Matt's ability to think big but concretely is a powerful

combination and bodes well for his time as a law clerk.

Finally, Matt's superior performance in both of my classes appears to have been par for the course for him. Matt carved out a truly excellent record of achievement at Stanford Law, but his transcript requires some unpacking. When COVID-19 hit, Stanford Law School, like many other law schools, moved its instruction online and eliminated grading. As a result, Matt's transcript contains two full quarters of mandatory pass-fail (designated MPH) grades. However, the rest of his transcript tells you all you need to know: Matt earned Honors grades—once again, reserved for the top-third of students in a given course—in two-thirds of the courses he took. That's a remarkable achievement, especially given the rigor of Stanford's grading system. Unlike some of our peer schools, which place no upper limit on the number of students who can earn an Honors grade in a course, Stanford strictly limits the proportion who can do so. At certain other schools, it is common for a non-trivial number of students to earn all Honors grades across all three years of law school. At Stanford, by contrast, it is not unusual for *every* student in the 1L class to emerge from the first year with at least one Pass grade, and even earning two-thirds Honors grades is enough to place a student in the top 15 percent of the class. Matt's performance puts him in that elite group.

Adding all of this together, and even with a pandemic-truncated transcript, it is clear that Matt was in the very top echelon of students in the Stanford Law School class of 2022. When you add in Matt's curiosity and confidence and his gamer-ness, the picture is clear: Matt will be a productive, professional, and zero-risk addition to any chambers, and I can enthusiastically recommend him without any hesitation whatsoever.

If I can supply further information, please do not hesitate to call me. My cell phone number, the best way to reach me, is 650-739-5851.

Sincerely,

/s/ David Freeman Engstrom

David Freeman Engstrom - dfengstrom@law.stanford.edu - 650-723-9148

Alan Sykes
Professor of Law and Warren Christopher Professor in the Practice of International Law and Diplomacy
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March 23, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to offer my highest recommendation for Matthew Krantz. Matt was a star student at Stanford, certainly among the best in his class, and was chosen by his peers to serve as Managing Editor of the *Stanford Law Review*. His transcript as a whole is terrific, reflecting Honors grades in nearly every class.

In my torts class, Matt was deeply engaged on matters of both doctrine and policy, and he was invariably thoroughly prepared. When students had difficulties and discussions wandered off track, I could always rely on Matt to guide us back in the right direction. By the end of our class sessions, I had identified Matt as a top student and fully expected his exam to be terrific. The exam met and exceeded my high expectations for incisive analysis and clarity. I also learned this past Fall that his student outline for the class is now widely circulating online and was the choice of most of the students in the class last Fall to serve as the foundation for their own outlines.

Matt was the first student I contacted with an offer to serve as teaching assistant in the Fall of 2020, and he quickly accepted. I knew at the time that the year would be especially challenging, with all classes expected to be online (as indeed they were). This situation presented special pedagogical difficulties and raised serious concerns about the emotional health and morale of our entering first-year students, who would for the most part be confined to their dorm rooms and unable to interact socially or professionally with their peers. I felt that Matt, with his outgoing and invariably cheerful personality to accompany his enormous intellectual gifts, would be an ideal person to help us through these challenges, and my judgment in that regard was quickly confirmed. We were able to organize small group sessions with students that met outdoors to work through analytical problems and discuss other issues in the class. Because only a few students at a time were allowed to gather, we divided the class among us each week, and several meetings a week were nevertheless necessary to give all students an opportunity to participate. Many students reported that these small group meetings were very important for them intellectually and emotionally, and I received many glowing comments about Matt for the sessions that he led.

In addition, I relied on Matt to help me design analytical discussion problems for the small group sessions, and for ideas about questions for the final exam. He was also very helpful in assisting me to grade the final exam. I had great faith in his judgment about the quality of student answers.

On a personal level, Matt is outgoing, affable and invariably good-humored. I cannot recall an occasion when I did not see him smiling. He is without a doubt among the most popular students in his class. Matt is also pleasantly non-ideological and tolerant of divergent viewpoints, an increasingly rare trait among law students these days. I can assure you that you would enjoy the chance to get to know him, and that he would be a pleasure to have in chambers.

In sum, I offer Matt my highest recommendation. His intellectual strengths, combined with his interpersonal skills and cheery outlook, make him a truly extraordinary clerkship candidate. If I can be of any further assistance on his behalf, please do not hesitate to call or write.

Sincerely,

/s/ Alan Sykes

StanfordLawSchool

JENNY S. MARTINEZ
Richard E. Lang Professor of Law and Dean

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Stanford Grading System

Dear Judge:

Since 2008, Stanford Law School has followed the non-numerical grading system set forth below. The system establishes "Pass" (P) as the default grade for typically strong work in which the student has mastered the subject, and "Honors" (H) as the grade for exceptional work. As explained further below, H grades were limited by a strict curve.

H	Honors	Exceptional work, significantly superior to the average performance at the school.
P	Pass	Representing successful mastery of the course material.
MP	Mandatory Pass	Representing P or better work. (No Honors grades are available for Mandatory P classes.)
MPH	Mandatory Pass - Public Health Emergency*	Representing P or better work. (No Honors grades are available for Mandatory P classes.)
R	Restricted Credit	Representing work that is unsatisfactory.
F	Fail	Representing work that does not show minimally adequate mastery of the material.
L	Pass	Student has passed the class. Exact grade yet to be reported.
I	Incomplete	
N	Continuing Course	
[blank]		Grading deadline has not yet passed. Grade has yet to be reported.
GNR	Grade Not Reported	Grading deadline has passed. Grade has yet to be reported.

In addition to Hs and Ps, we also award a limited number of class prizes to recognize truly extraordinary performance. These prizes are rare: No more than one prize can be awarded for every 15 students enrolled in a course. Outside of first-year required courses, awarding these prizes is at the discretion of the instructor.

* The coronavirus outbreak caused substantial disruptions to academic life beginning in mid-March 2020, during the Winter Quarter exam period. Due to these circumstances, SLS used a Mandatory Pass-Public Health Emergency/Restricted Credit/Fail grading scale for all exam classes held during Winter 2020 and all classes held during Spring 2020.

For non-exam classes held during Winter Quarter (e.g., policy practicums, clinics, and paper classes), students could elect to receive grades on the normal H/P/Restricted Credit/Fail scale or the Mandatory Pass-Public Health Emergency/Restricted Credit/Fail scale.

The five prizes, which will be noted on student transcripts, are:

- the Gerald Gunther Prize for first-year legal research and writing,
- the Gerald Gunther Prize for exam classes,
- the John Hart Ely Prize for paper classes,
- the Hilmer Oehlmann, Jr. Award for Federal Litigation or Federal Litigation in a Global Context, and
- the Judge Thelton E. Henderson Prize for clinical courses.

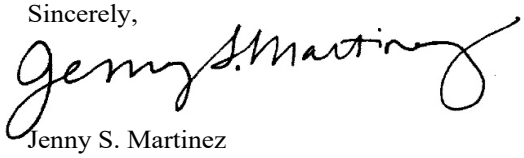
Unlike some of our peer schools, Stanford strictly limits the percentage of Hs that professors may award. Given these strict caps, in many years, *no student* graduates with all Hs, while only one or two students, at most, will compile an all-H record throughout just the first year of study. Furthermore, only 10 percent of students will compile a record of three-quarters Hs; compiling such a record, therefore, puts a student firmly within the top 10 percent of his or her law school class.

Some schools that have similar H/P grading systems do not impose limits on the number of Hs that can be awarded. At such schools, it is not uncommon for over 70 or 80 percent of a class to receive Hs, and many students graduate with all-H transcripts. This is not the case at Stanford Law. Accordingly, if you use grades as part of your hiring criteria, we strongly urge you to set standards specifically for Stanford Law School students.

If you have questions or would like further information about our grading system, please contact Professor Michelle Anderson, Chair of the Clerkship Committee, at (650) 498-1149 or manderson@law.stanford.edu. We appreciate your interest in our students, and we are eager to help you in any way we can.

Thank you for your consideration.

Sincerely,



Jenny S. Martinez
Richard E. Lang Professor of Law and Dean

Updated May 2020

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WRITING SAMPLE

I prepared the attached writing sample for an assignment in Modern Surveillance Law, a Fall 2020 course at Stanford Law School. The assignment required analyzing whether the third-party doctrine still has life after *Carpenter v. United States*, 138 S. Ct. 2206 (2018). Based on the assignment's instructions, the submitted paper could not exceed ten pages. This work is entirely my own and has not been edited by others.

Alive or on Life Support?

The Third-Party Doctrine Post-*Carpenter*

Matt Krantz

Modern Surveillance Law (LAW 4015)

Professors Todd Hinnen and Richard Salgado

Fall Quarter 2020

Paper 1

Introduction

When the Supreme Court decided *Carpenter* in 2018, Chief Justice Roberts went to great lengths to emphasize the Court's narrow ruling. "We do not express a view on matters not before us," he wrote.[1] "We do not disturb the application of *Smith* or *Miller* or call into question traditional surveillance techniques and tools."[2] The majority did not upend the third-party doctrine, according to Chief Justice Roberts. It simply "decline[d] to extend *Smith* and *Miller*" to cover the "novel circumstances" surrounding cell-site location information (CSLI).[3]

The dissenters saw things differently. Justice Gorsuch read the majority opinion as a rejection of *Smith* and *Miller*, and he criticized the Court for keeping these decisions "on life support" rather than overturning them.[4] Justice Kennedy went further, framing the majority opinion as a "reinterpretation of *Miller* and *Smith*" and warning of "dramatic consequences" that could extend "beyond cell-site records to other kinds of information."[5]

Which of these views, if any, is correct? Answering this question requires determining whether the third-party doctrine still has life after *Carpenter*. In practice, Chief Justice Roberts seems to have prevailed. In the two years following *Carpenter*, "lower courts have largely heeded the Court's admonition that its decision was a narrow one, and declined to extend Fourth Amendment protection to a variety of non-content data types."[6] Yet in theory, Justice Kennedy's argument still stands. *Carpenter*'s language is broad, and even courts reading the case narrowly have suggested a willingness "to extend Fourth Amendment protection . . . in the future as data

[1] Carpenter v. United States, 138 S. Ct. 2206, 2220 (2018).
[2] *Id.*
[3] *Id.* at 1217.
[4] *Id.* at 2272 (Gorsuch, J., dissenting).
[5] *Id.* at 2233-34 (Kennedy, J., dissenting).
[6] Lauren Moxley & Shane Rogers, *Two Years of* Carpenter, INSIDE PRIV. (July 7, 2020), https://www.insideprivacy.com/uncategorized/two-years-of-carpenter; *see also* Alan Z. Rozenshtein, *Fourth Amendment Reasonableness After* Carpenter, 128 YALE L.J.F. 943, 950 (noting that lower courts have "generally cabin[ed] *Carpenter*'s cabining of the third-party doctrine").

collection through technology becomes even more pervasive."[7] More and more "non-content" is as comprehensive and invasive as CSLI, and it is possible that *Carpenter*'s third-party exception could eventually swallow the rule.

Where does that leave us? The third-party doctrine is alive today, but its life might be draining quickly. In other words, Justice Gorsuch seems to have correctly diagnosed the third-party doctrine as "on life support."[8] Courts have already limited the doctrine for content stored by third parties,[9] and *Carpenter* seems poised—in the long term—to impose the same limitations for non-content information. In this Paper I argue that the third-party doctrine is in fact on life support, and that its post-*Carpenter* life could be short given changes in technology and surveillance capabilities. I also argue that, while the third-party doctrine could apply in narrow cases going forward, courts might be well served to abandon the doctrine entirely.

This Paper proceeds in three Parts. In Part I, I analyze how *Carpenter* changes the calculus surrounding *Smith* and *Miller*. In Part II, I discuss how *Carpenter*'s broad language can have broad implications for the future (or lack thereof) of the third-party doctrine. In Part III, I conclude by assessing where we are, examining situations where the third-party doctrine might still have (limited) life, and suggesting the doctrine's abrogation.

I. *Smith* and *Miller* After *Carpenter*

Smith and *Miller* announced "a categorical rule: Once you disclose information to third parties, you forfeit any reasonable expectation of privacy you might have had in it."[10] In *Miller*,

[7] Moxley & Rogers, *supra* note 6. The authors specifically cite *United States v. Cox*, 465 F. Supp. 3d 854, 858-59 (N.D. Ind. 2020), which declined to extend *Carpenter* to Facebook subscriber information but noted that "[t]he evolution of technology may one day change the analysis on this issue."

[8] *Carpenter*, 138 S. Ct. at 2272 (Gorsuch, J., dissenting).

[9] *See* United States v. Warshak, 631 F.3d 266, 274 (6th Cir. 2010).

[10] *Carpenter*, 138 S. Ct. at 2262 (Gorsuch, J., dissenting); *see* Smith v. Maryland, 442 U.S. 735, 743-44 (1979) (citing United States v. Miller, 425 U.S. 435, 442-44 (1976)) ("This Court consistently has held that a person has no legitimate expectation of privacy in information he voluntarily turns over to third parties.").

the Court held that the Fourth Amendment did not apply to records of account activity stored by the defendant's bank.[11] Because the defendant voluntarily conveyed the records to the bank and enjoyed "no legitimate 'expectation of privacy' in their contents," the government could subpoena the records without a warrant.[12] *Smith*, citing the same principles, held that an individual has no "legitimate expectation of privacy" regarding numbers dialed on a telephone and subsequently captured by a pen register.[13] Although courts later limited the government's ability to obtain content stored by third parties,[14] *Smith* and *Miller* served as a "bright-line rule" for non-content information pre-*Carpenter*.[15]

Whether or not the *Carpenter* Court established a "balancing test" for third-party, non-content information,[16] it is clear that *Smith* and *Miller* are no longer bright-line or categorical. Although the Court (nominally) left *Smith* and *Miller* undisturbed, it carved out a doctrinal exception by distinguishing the two cases:

> [T]he fact that the individual continuously reveals his location to his wireless carrier implicates the third-party principle of *Smith* and *Miller*. But while the third-party doctrine applies to telephone numbers and bank records, it is not clear whether its logic extends to the *qualitatively different category* of cell-site records. . . . Given the unique nature of cell phone location records, the fact that the information is held by a third party does not by itself overcome the user's claim to Fourth Amendment

[11] *Miller*, 425 U.S. at 442-45.

[12] *See id.*; *cf.* Katz v. United States, 389 U.S. 347, 361 (1967) (Harlan, J., concurring) (noting that the Fourth Amendment affords protection when an individual's expectation of privacy is both subjective and "one that society is prepared to recognize as 'reasonable'").

[13] *Smith*, 442 U.S. at 742-46.

[14] *See Warshak*, 631 F.3d at 288 (distinguishing *Miller* and holding that, based on *Katz*, "[t]he government may not compel a commercial ISP to turn over the contents of a subscriber's emails without first obtaining a warrant").

[15] *See* Orin Kerr, *Understanding the Supreme Court's* Carpenter *Decision*, LAWFARE (June 22, 2018, 1:18 PM), https://www.lawfareblog.com/understanding-supreme-courts-carpenter-decision.

[16] *See* Carpenter v. United States, 138 S. Ct. 2206, 2231 (2018) (Kennedy, J., dissenting).

> protection. . . . [W]e hold that an individual maintains a legitimate expectation of privacy in the record of his physical movements as captured through CSLI.[17]

According to the Court, you no longer automatically forfeit a "reasonable expectation of privacy" when you disclose non-content information to third parties. Instead, your expectation of privacy can vary based on the characteristics of the records or technology at issue.[18]

This change alone takes some life out of the third-party doctrine. While lower courts have continued to apply *Smith* and *Miller* to "conventional surveillance techniques and tools,"[19] it is now clear that *Smith* and *Miller* will govern in some cases and *Carpenter* in others. The fact that individuals have a reasonable expectation of privacy for CSLI but not for phone numbers or bank records raises the question of where we should draw the line—and indeed, whether a line should exist at all. If the third-party doctrine does not apply to CSLI because (1) cell phones are ubiquitous; (2) disclosure is involuntary; and (3) CSLI is revealing,[20] why should our treatment of bank records look any different?[21] Of course, it is possible to meaningfully distinguish between CSLI, bank records, and telephone numbers.[22] But the fact that the third-party doctrine requires an exception weakens the life and logic of the rule.

All of this is true even if courts read *Carpenter* narrowly. But what if *Carpenter* is actually a broad decision? As sophisticated systems come into regular use, we might imagine *Carpenter*'s

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[17] *Id.* at 2216-17 (majority opinion) (emphasis added).

[18] *See id.* at 2220 ("[T]his case is not about 'using a phone' or a person's movement at a particular time. It is about a detailed chronicle of a person's physical presence . . . .").

[19] *Id.*; *see, e.g.*, United States v. Contreras, 905 F.3d 853, 857 (5th Cir. 2018) (holding that IP addresses fall "comfortably within the scope of the third-party doctrine" even after *Carpenter*); *see also* Moxley & Rogers, *supra* note 6 (collecting recent cases).

[20] *See Carpenter*, 138 S. Ct. at 2220.

[21] In his *Miller* dissent, Justice Brennan noted that the disclosure of financial affairs to a bank "is not entirely volitional, since it is impossible to participate in the economic life of contemporary society without maintaining a bank account." United States v. Miller, 425 U.S. 435, 451 (1976) (Brennan, J., dissenting) (quoting Burrows v. Superior Ct., 529 P.2d 590, 596 (Cal. 1974)). Brennan also noted that bank records can reveal "personal affairs, opinions, habits and associations" so as to become "a virtual current biography." *Id.*

[22] *See supra* notes 17-18 and accompanying text.

exception further eroding the rules set forth in *Smith* and *Miller*. The next Part explores this possibility, arguing that *Carpenter* reflects a changing landscape and will likely dictate the outcome of future cases.

II. *Carpenter*'s Broad Implications

As noted above, the *Carpenter* Court repeatedly stressed the decision's narrow scope.[23] But *Carpenter*'s reasoning is broad, and it will be difficult to limit the case to its facts as a result. Indeed, the Court's discussion of CSLI might have far-reaching effects as our technological and social landscape continues to change.

The third-party doctrine is best characterized as "on life support" when viewed through this lens.[24] Much of today's "non-content" information resembles CSLI, and the "seismic shifts in digital technology" driving *Carpenter*'s exception extend well beyond location data.[25] The result is that *Carpenter* might have more long-term force than *Smith* and *Miller*, cabining the latter two cases and limiting the third-party doctrine's reach.[26] This outcome seems likely for two reasons: the growing gap between analog and digital information,[27] and the blurring lines between content and non-content.

A. Analog Versus Digital Information

The Supreme Court has already distinguished between analog and digital information for purposes of the Fourth Amendment.[28] *Carpenter* extended this distinction to the third-party

[23] *See supra* notes 1-3 and accompanying text; *see also, e.g.*, *Carpenter*, 138 S. Ct. at 2220 n.4 ("Like Justice Gorsuch, we 'do not begin to claim all the answers today,' and therefore decide no more than the case before us." (citation omitted) (quoting *id.* at 2268 (Gorsuch, J., dissenting))).

[24] *Carpenter*, 138 S. Ct. at 2272 (Gorsuch, J., dissenting).

[25] *Id.* at 2219 (majority opinion).

[26] Although this Part can be read independently from Part I, *Carpenter*'s expansion could more rapidly call into question the logic underlying *Smith* and *Miller*. *See supra* notes 20-22 and accompanying text.

[27] I use the term "analog" to refer to records that are narrow in scope based on practical limitations (even if stored on a computer). *See* United States v. Jones, 565 U.S. 400, 429 (2012) (Alito, J., concurring in the judgment).

[28] *See, e.g.*, Riley v. California, 573 U.S. 373, 395 (2014) (holding that the Fourth Amendment covers cell phone searches, in part because phones contain "a digital record of nearly every aspect of [people's] lives"). *Riley* emphasized

doctrine, noting the "world of difference between the limited types of personal information addressed in *Smith* and *Miller* and the exhaustive chronicle of location information" comprising CSLI.[29] In doing so, *Carpenter* effectively ensured its broad reach: Technology has become increasingly prevalent and invasive, and *Carpenter*'s logic seems increasingly more appropriate than that of *Smith* and *Miller*.

Much of the reasoning in *Carpenter* extends beyond CSLI to other types of third-party, non-content data. CSLI is exempt from the third-party doctrine because "carrying [a cell phone] is indispensable to participation in modern society"?[30] The same can be said for content-generating interactions with Google, Amazon, and Facebook.[31] CSLI collection is involuntary because "a cell phone logs a cell-site record by dint of its operation"?[32] So too for browsing history and cookies.[33] We should afford greater protection for CSLI based on its "revealing nature"?[34] A set of Internet queries "could reveal an individual's private interests or concerns—perhaps a search for certain symptoms of a disease, coupled with frequent visits to WebMD."[35] Even the familiar domain of *Miller*—bank records—might require reexamination.[36]

In short, *Carpenter* acknowledged that we are no longer living in the analog world of *Smith* and *Miller*. Massive digital databases and widespread Internet use might have been unforeseeable

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the difference between police scrutiny of cell phone data and the "search [of] a personal item or two in the occasional case." *Id.*

[29] *Carpenter*, 138 S. Ct. at 2220.

[30] *Id.* at 2220.

[31] *See* Kashmir Hill, *I Tried to Live Without the Tech Giants. It Was Impossible.*, N.Y. TIMES (July 31, 2020), https://www.nytimes.com/2020/07/31/technology/blocking-the-tech-giants.html.

[32] *Carpenter*, 138 S. Ct. at 2220.

[33] *See* Daniel de Zayas, Comment, Carpenter v. United States *and the Emerging Expectation of Privacy in Data Comprehensiveness Applied To Browsing History*, 68 AM. U. L. REV. 2209, 2251-53 (2019).

[34] *Carpenter*, 138 S. Ct. at 2223.

[35] Riley v. California, 573 U.S. 373, 395-96 (2014).

[36] *See* Burt Helm, *Credit Card Companies Are Tracking Shoppers Like Never Before: Inside the Next Phase of Surveillance Capitalism*, FAST CO. (May 12, 2020), https://www.fastcompany.com/90490923/credit-card-companies-are-tracking-shoppers-like-never-before-inside-the-next-phase-of-surveillance-capitalism (describing online shopping as a "panopticon" where financial entities "track[] and analyze[] . . . purchases in near real time").

in the 1970s, but they are more or less the norm today.[37] These developments implicate concerns beyond those raised in *Smith* and *Miller*, and they place *Carpenter* at the forefront of the third-party doctrine's future.[38] This is true for location data and beyond.[39]

B. Content Versus Non-Content

Carpenter also recognized that the third-party doctrine's distinction between content and non-content is somewhat artificial.[40] Before *Carpenter*, location data seemed to fall squarely in the realm of non-content.[41] The *Carpenter* majority, however, took issue with this characterization. Because CSLI is "compiled every day, every moment, over several years," the Court noted that CSLI presents a detailed picture of physical location and thus "implicates privacy concerns far beyond those considered in *Smith* and *Miller*."[42] As in Part II.A, this seems to be a more accurate understanding of today's world. Content and non-content blur in large amounts, and it is possible to learn a great deal about individuals from "non-content" data.[43]

Carpenter seems to embrace the mosaic theory, "the idea that large-scale or long-term collections of data reveal details about individuals in ways that are qualitatively different than single instances of observation."[44] Although the theory has its critics,[45] it makes intuitive sense:

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[37] *See Carpenter*, 138 S. Ct. at 2217 ("[W]hen *Smith* was decided in 1979, few could have imagined a society in which a phone goes wherever its owner goes, conveying . . . [a] comprehensive record of the person's movements.").

[38] *See* Paul Ohm, *The Broad Reach of* Carpenter v. United States, JUST SEC. (June 27, 2018), https://www.justsecurity.org/58520/broad-reach-carpenter-v-united-states ("[C]riminal defendants will test the outer boundaries of *Carpenter*'s reasoning whenever the police use massive databases . . . that reveal location information, directly or by inference. Other defendants will challenge the collection of data unrelated to location. The broad reasoning of the majority's opinion will give all of them plenty to work with.").

[39] *See id.*; *see also supra* note 7 and accompanying text.

[40] This distinction can be seen in the Stored Communications Act, which establishes different standards for obtaining content and non-content information held by third parties. *See* 18 U.S.C. § 2703. It is helpful to think of content as "substance" (e.g. phone conversations) and non-content as "metadata" (e.g. phone numbers).

[41] *United States v. Jones*, 565 U.S. 400, 412-13 (2012), raised the possibility that such data might be content. However, the Court did not reach the issue on the merits. *Id.*

[42] *Carpenter*, 138 S. Ct. at 2220.

[43] *See, e.g.*, *supra* note 35 and accompanying text.

[44] Paul Rosenzweig, *In Defense of the Mosaic Theory*, LAWFARE (Nov. 29, 2017, 3:18 PM), https://www.lawfareblog.com/defense-mosaic-theory.

[45] *See* Orin S. Kerr, *The Mosaic Theory of the Fourth Amendment*, 111 MICH. L. REV. 311, 314-15 (2012).

One URL in my search history does not reveal much, but a series of URLs might indicate that I am writing a paper on the third-party doctrine.[46] Given the ubiquity of trackers and the wealth of (potentially revealing) metadata held by third parties,[47] *Carpenter*'s embrace of the mosaic theory once again puts it out ahead of *Smith* and *Miller*. It is hard to draw a clear line between content and non-content, but it is easy to imagine *Carpenter*'s pragmatic approach guiding courts in subsequent "non-content" decisions.[48]

III. Where Are We Now?

If *Carpenter* is set to cabin *Smith* and *Miller*[49]—and at the very least calls into question the logic underlying those cases[50]—what is left of the third-party doctrine? This Part aims to answer that question and assess the third-party doctrine as it currently stands. Although the third-party doctrine still has life in (at least) four scenarios, I conclude that the doctrine is anemic and courts might be better off without it.

Beginning with the four scenarios just mentioned: In what situations can the government still obtain third-party data without a warrant? First, we know that *Smith* and *Miller* are still good law. The *Carpenter* majority took care not to overturn these cases, so the third-party doctrine is still alive for bank records and telephone numbers.[51] Second, the third-party doctrine might still

[46] *Cf. Jones*, 565 U.S. at 415 (Sotomayor, J., concurring) ("GPS monitoring generates a precise, comprehensive record of a person's public movements that reflects a wealth of detail about her familial, political, professional, religious, and sexual associations.").

[47] *See* Geoffrey A. Fowler, *It's the Middle of the Night. Do You Know Who Your iPhone Is Talking To?*, WASH. POST (May 28, 2019, 5:00 AM PDT), https://www.washingtonpost.com/technology/2019/05/28/its-middle-night-do-you-know-who-your-iphone-is-talking ("In a single week, I encountered over 5,400 trackers . . . . [T]hose unwanted trackers would have spewed out 1.5 gigabytes of data over the span of a month."); *see also Jones*, 565 U.S. at 429 (Alito, J., concurring in the judgment) ("Devices like the one used in the present case, however, make long-term monitoring relatively easy and cheap.").

[48] *See, e.g.*, Commonwealth v. McCarthy, 142 N.E.3d 1090, 1104 (Mass. 2020) ("With enough cameras in enough locations, the historic location data from an [automatic license plate reader] system in Massachusetts would invade a reasonable expectation of privacy and would constitute a search for constitutional purposes.").

[49] *See supra* Part II.

[50] *See supra* Part I.

[51] *See supra* notes 1-3 and accompanying text. We also know that lower courts have read *Carpenter* narrowly, though this is subject to change. *See* Moxley & Rogers, *supra* note 6.

apply in emergencies. *Carpenter* carved out an exigency exception for CSLI, noting that warrantless searches would likely be appropriate to "pursue a fleeing suspect, protect individuals who are threatened with imminent harm, or prevent the imminent destruction of evidence."[52] Third, CSLI and similar data might still be accessible in limited quantities over limited periods.[53] Finally, the third-party doctrine might still have force for "collection techniques involving foreign affairs or national security."[54]

Assuming that *Carpenter* governs future cases as described in Part II, the third-party doctrine thus has life: (1) for telephone numbers, bank records, and other narrow types of analog information; (2) in emergencies; (3) for limited data sets; and (4) in some intelligence situations. This is not much of a life, and the notion that a person "has no legitimate expectation of privacy in information he voluntarily turns over to third parties" might soon become the exception rather than the rule.[55] *Carpenter*, meanwhile, might come to protect the majority of third-party content and non-content information.[56]

Is this necessarily a bad thing? Put differently, should we be concerned that the third-party doctrine is on life support? I would argue no. As Justice Sotomayor noted in *Jones*, the third-party doctrine is "ill suited to the digital age, in which people reveal a great deal of information about themselves to third parties in the course of carrying out mundane tasks."[57] Privacy groups have

[52] Carpenter v. United States, 138 S. Ct. 2206, 2222-23 (2018).

[53] *See id.* at 2217 n.3 ("[W]e need not decide whether there is a limited period for which the Government may obtain an individual's historical CSLI free from Fourth Amendment scrutiny, and if so, how long that period might be. It is sufficient for our purposes today to hold that accessing seven days of CSLI constitutes a Fourth Amendment search.").

[54] *Id.* at 2220.

[55] Smith v. Maryland, 442 U.S. 735, 743-44 (1979).

[56] Even without *Warshak*, *Carpenter* seems to apply to third-party content. If CSLI implicates "legitimate privacy interest[s] in records held by a third party," emails and documents a fortiori implicate such interests. *Carpenter*, 138 S. Ct. at 2222; *see also* Katz v. United States, 389 U.S. 347, 353 (1967) (protecting the contents of a telephone conversation under the Fourth Amendment).

[57] United States v. Jones, 565 U.S. 400, 417 (2012) (Sotomayor, J., concurring).

echoed this sentiment, calling the doctrine a "relic of a bygone era" and noting that individuals are "largely unaware of the volume and sensitivity of data collected about them."[58] Rather than artificially extending the third-party doctrine's life (and maintaining a jurisprudential patchwork under *Smith*, *Miller*, and *Carpenter*), we might therefore consider abrogating the doctrine and reassessing whether individuals have a "reasonable expectation of privacy" in the data they provide to third parties.[59] If the answer is yes, then for third-party content and non-content alike, "the Government's obligation is a familiar one—get a warrant."[60]

Conclusion

In light of the above, it is clear that the third-party doctrine is on life support. Although courts have interpreted *Carpenter* narrowly, there are indications—especially when considering new technology and surveillance techniques—that the case will have a broad reach going forward. In the future, *Carpenter* might cabin *Smith* and *Miller* or serve as a basis for ending the third-party doctrine. In the present, *Carpenter* raises issues that might lead us to question the third-party doctrine's wisdom. Ultimately, it is hard to overstate *Carpenter*'s importance to Fourth Amendment jurisprudence.[61] As the case continues to evolve beyond its facts, it will be interesting to see for how long—and whether—the third-party doctrine survives.

[58] *See* Brief of Amicus Curiae Electronic Privacy Information Center (EPIC) in Support of Defendant-Appellant at 9-10, Commonwealth v. Zachery, No. SJC-12952 (Mass. Oct. 16, 2020); *Commonwealth v. Zachery*, ELEC. PRIV. INFO. CTR., https://epic.org/amicus/massachusetts/zachery (last visited Oct. 24, 2020).

[59] *See Katz*, 389 U.S. at 360-61 (Harlan, J., concurring); *see also Jones*, 565 U.S. at 416 (Sotomayor, J., concurring). *Carpenter* might provide a good starting point for this analysis.

[60] *Carpenter*, 138 S. Ct. at 2221.

[61] *Cf.* Ohm, *supra* note 38 ("*Carpenter v. United States* is an inflection point in the history of the Fourth Amendment. . . . It will be seen as being as important as *Olmstead* and *Katz* in the overall arc of technological privacy.").

Applicant Details

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Date of BA/BS	**June 2019**
JD/LLB From	**New York University School of Law** **https://www.law.nyu.edu**
Date of JD/LLB	**May 17, 2023**
Class Rank	**School does not rank**
Law Review/Journal	**Yes**
Journal(s)	**NYU Law Review**
Moot Court Experience	**Yes**
Moot Court Name(s)	**Marden Moot Court**

Bar Admission

Prior Judicial Experience

Judicial Internships/Externships	**No**

Post-graduate Judicial Law Clerk	**No**

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

Sam Aaron Krevlin
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March 27, 2023

The Honorable Jamar K. Walker
United States District Court
Eastern District of Virginia
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510

Dear Judge Walker,

I am a third-year student at New York University School of Law where I serve as an executive editor of the *NYU Law Review*. Following graduation, I will be a litigation associate at Mayer Brown. I am writing to express my interest in a clerkship for the 2024-2025 term.

In addition to working in private practice, I have a strong commitment to public service and have worked in both the executive and legislative branches of government.

This past fall, I investigated civil rights abuses within federal prisons for the Senate Permanent Subcommittee on Investigations (PSI). Following the inquiry, I drafted sections of PSI's executive report and prepared Senator Jon Ossoff for public hearings. The tactics we used during this probe informed my forthcoming Note in the *NYU Law Review* on contextualizing 21st century congressional investigations in an era of polarized politics.

Prior to my work in the Senate, I served as an extern with the U.S. Attorney's Office for the Southern District of New York where I worked on a diverse docket of civil cases including financial fraud, tort claims, and civil rights. With the Southern District, I participated in various stages of litigation from initial conference, through trial, and on appeal. I prepared depositions, drafted complaints and answers, reviewed documents, and wrote memoranda of law.

Enclosed please find my resume, transcript, and writing sample.

Under separate cover, you will find letters of recommendation from (1) Professor of Civil Rights and Legal Director for the Center for Constitutional Rights Baher Azmy, (2) Clinical Professor and Former White House Counsel Bob Bauer, (3) Clinical Professor and Chief of the Civil Rights Unit at the U.S. Attorney's Office for the Southern District of New York David Kennedy, and (4) Former Chief Counsel of PSI Dan Eisenberg.

Please feel free to contact me by email (samkrevlin@gmail.com) or phone (917-763-4123) for additional information.

Respectfully,

Sam Aaron Krevlin

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EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY
Candidate for J.D., May 2023
Honors: *NYU Law Review*, Executive Editor
Activities: Marden Moot Court, Competitor; Public Interest Law Student Association, Board Member

NORTHWESTERN UNIVERSITY, **MEDILL SCHOOL OF JOURNALISM**, Evanston, IL
B.S. in Journalism and B.A. in Political Science, June 2019
Honors: Commencement Speaker at Medill Graduation (Chosen by faculty)
Activities: *Daily Northwestern*, State Politics Beat Reporter

EXPERIENCE

MAYER BROWN, New York, NY
Associate, Fall 2023; ***Summer Associate***, May – July 2022
Wrote a declaration for an Afghan woman seeking refuge from the Taliban. Drafted a motion to exclude expert testimony in a contract dispute. Updated clients on sanctions imposed against Russia by the United States.

SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS, Washington DC
Law Clerk for Senator Jon Ossoff, August – December 2022
Investigated civil rights abuses within federal prisons. Helped secure bipartisan support through political and legal negotiations. Drafted sections of an executive report on sexual abuse in federal prisons. Prepared Senator Ossoff before public hearings. Proposed two investigations for the Senator to initiate next term.

CIVIL LITIGATION DIVISION AT U.S. ATTORNEY'S OFFICE, S.D.N.Y., New York, NY
NYU Clinical Extern, January – May 2022
Assisted for two AUSAs in both affirmative and defensive litigation by preparing depositions, writing complaints and answers, reviewing documents, and drafting memoranda of law. Prepared for oral arguments involving a request for documents from U.S. Immigration and Customs Enforcement.

LAWYERS COMMITTEE FOR CIVIL RIGHTS UNDER LAW, Washington, DC
Voting Rights Project Intern, June – July 2021
Prepared the Committee for oral and written testimony on Texas redistricting. Wrote a memo on the application of the Purcell Principle. Advised the policy team on democratic reforms to the electoral process.

KAMALA HARRIS FOR THE PEOPLE, Spartanburg, SC
Field Organizer, July – December 2019
Built and oversaw field operations in three rural counties. Managed volunteer training, recruitment, and phonebanks. Secured endorsements from community groups, faith-based leaders, and elected officials. Recruited and led a team of eight volunteer captains who exceeded weekly goals.

BLOOMBERG PHILANTHROPIES, New York, NY
Communications Intern, June – September 2018
Created video content across education, public health, government innovation, and the arts. Curated content for the Global Business Forum, which gathers world leaders and CEOs to discuss trade policy and innovation.

MEDILL JUSTICE PROJECT, Evanston, IL
Investigative Reporter, March – September 2018
Led an investigation leading to the freedom of a wrongfully convicted man. Reviewed and analyzed court documents and police records. Conducted weekly interviews with inmate. Pursued and questioned witnesses and law enforcement officials. Co-authored a front-page story featured in the *Detroit Free Press*.

ADDITIONAL INFORMATION

Working knowledge of Spanish. Studied abroad in Copenhagen, Denmark and Beijing, China. Marathon runner and former club tennis player.

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Institution ID: **002785**
Page: **1 of 1**

New York University
Beginning of School of Law Record

Fall 2020

School of Law
Juris Doctor
Major: Law

Lawyering (Year)	LAW-LW 10687	2.5	CR
Instructor: Stratos N Pahis			
Torts	LAW-LW 11275	4.0	B
Instructor: Eleanor M Fox			
Procedure	LAW-LW 11650	5.0	B+
Instructor: Helen Hershkoff			
Contracts	LAW-LW 11672	4.0	B
Instructor: Kevin E Davis			
1L Reading Group	LAW-LW 12339	0.0	CR
Topic: Baseball as a Road to God			
Instructor: John Sexton			

	AHRS	EHRS
Current	15.5	15.5
Cumulative	15.5	15.5

Spring 2021

School of Law
Juris Doctor
Major: Law

Constitutional Law	LAW-LW 10598	4.0	B+
Instructor: Trevor W Morrison			
Lawyering (Year)	LAW-LW 10687	2.5	CR
Instructor: Stratos N Pahis			
Legislation and the Regulatory State	LAW-LW 10925	4.0	B
Instructor: Adam B Cox			
Criminal Law	LAW-LW 11147	4.0	B
Instructor: Avani Mehta Sood			
1L Reading Group	LAW-LW 12339	0.0	CR
Instructor: John Sexton			
Financial Concepts for Lawyers	LAW-LW 12722	0.0	CR

	AHRS	EHRS
Current	14.5	14.5
Cumulative	30.0	30.0

Fall 2021

School of Law
Juris Doctor
Major: Law

Civil Rights	LAW-LW 10265	4.0	A-
Instructor: Baher A Azmy			
Corporations	LAW-LW 10644	5.0	A-
Instructor: Robert Jackson			
Professional Responsibility and the Regulation of Lawyers	LAW-LW 11479	3.0	B+
Instructor: Stephen Gillers			
Orison S. Marden Moot Court Competition	LAW-LW 11554	1.0	CR
Teaching Assistant	LAW-LW 11608	2.0	CR
Instructor: Juan P Caballero			

	AHRS	EHRS
Current	15.0	15.0
Cumulative	45.0	45.0

Spring 2022

School of Law
Juris Doctor
Major: Law

Evidence	LAW-LW 11607	4.0	A-
Instructor: Daniel J Capra			
Colloquium on Law and Security	LAW-LW 11698	2.0	A-
Instructor: Stephen Holmes David M Golove Rachel Anne Goldbrenner			
Government Civil Litigation Externship-Southern District	LAW-LW 11701	3.0	A
Instructor: David Joseph Kennedy Rebecca Tinio			
Government Civil Litigation Externship - Southern District Seminar	LAW-LW 11895	2.0	A-
Instructor: David Joseph Kennedy Rebecca Tinio			
The Elements of Criminal Justice Seminar	LAW-LW 12632	2.0	B+
Instructor: Preet Bharara			

	AHRS	EHRS
Current	13.0	13.0
Cumulative	58.0	58.0

Fall 2022

School of Law
Juris Doctor
Major: Law

Legislative and Regulatory Process Clinic	LAW-LW 12230	8.0	A
Instructor: Sally Katzen Dyk Robert Bauer			
Legislative and Regulatory Process Clinic Seminar	LAW-LW 12231	6.0	IP
Instructor: Sally Katzen Dyk Robert Bauer			

	AHRS	EHRS
Current	14.0	8.0
Cumulative	72.0	66.0

Spring 2023

School of Law
Juris Doctor
Major: Law

Sports Law	LAW-LW 10585	3.0	***
Instructor: Jodi Saposnick Balsam			
Law Review	LAW-LW 11187	2.0	***
Federal Courts and the Federal System	LAW-LW 11722	4.0	***
Instructor: Helen Hershkoff			
Property	LAW-LW 11783	4.0	***
Instructor: Katrina M Wyman			

	AHRS	EHRS
Current	13.0	0.0
Cumulative	85.0	66.0

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March 20, 2023

Your Honor:

It is my pleasure to write in high recommendation of Sam Krevlin for a clerkship in your chambers. I supervised Sam while he served as a full-time law clerk for the U.S. Senate Permanent Subcommittee on Investigations ("PSI"), the primary investigative body of the U.S. Senate, during his first semester of 2L. At the time, I was the Deputy Staff Director & Senior Counsel; I have since returned to private practice in New York. Sam was our best law clerk during my nearly two years with PSI. He is a skilled writer with an impressive work ethic, fidelity to sound logic, and great judgment. His emotional intelligence, maturity, and curiosity set him apart from the many talented law students out there.

Our mandate at PSI was to conceive of and execute bipartisan civil rights-oriented investigations that held corrupt or negligent leaders to account and established a factual predicate for reforms. We did this by interviewing witnesses, requesting and analyzing non-public information from federal agencies and private companies, issuing bipartisan reports with findings, and holding Congressional hearings. This work was difficult. We had to find that sliver of the Venn diagram overlap between how we, in the Majority, understood the facts we uncovered and how our counterparts in the Minority did. We had no one to adjudicate what were essentially discovery disputes, and were left to our own devices to find creative ways of exerting pressure on federal agencies and creating our record. We had a shoestring budget. For most of my months-long investigations, it was just me and a junior attorney.

Sam dove in from the get-go. He brought enthusiasm and intensity to his work, quickly learning the rhythm of Congressional investigations. He came in early and stayed late, found ways to be helpful, and did more than what he was asked. I recall numerous instances—particularly for our investigation into the sexual abuse of female prisoners in Federal Bureau of Prisons facilities—where he conducted quick and thorough legal research into matters of Constitutional law, drafted memoranda that efficiently identified the crux of the issues, identified new investigative leads, and drafted sections of our bipartisan report ultimately published in conjunction with our December 2022 hearing featuring survivors of abuse, the Inspector General for the Department of Justice, and the Director of the Federal Bureau of Prisons. When it came to review sensitive documents *in camera* at the Department of Justice on the morning of the

Thanksgiving holiday, Sam was with us. When my analysis rested on a faulty premise, Sam told me so, respectfully, of course. It was invaluable to have a partner like Sam in the trenches with me. His motor, good attitude, and dedication were invaluable.

One of Sam's greatest strengths is the ability to see the big picture, situating his work in the scheme of institutional interactions between the legislative and executive branches or some broader legal or political strategy. This allows him to add value on his own initiative. For example, after learning our criteria for a viable investigation, he proposed a new one that, at least by the time I left the Senate, had been set into motion. I am not aware of any other law clerk-directed investigation.

Thinking back to my own time as a law clerk for a District Judge in the Southern District of New York, I have every confidence that Sam would thrive in this role. I recommend him without reservation. Please do not hesitate to contact me should you wish to discuss these matters. I would be glad for the chance to sing Sam's praises.

Respectfully submitted,

Dan Eisenberg
(212) 763-5003

New York University
A private university in the public service

School of Law

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Bob Bauer
Distinguished Scholar in Residence and Senior Lecturer
Co-Director of the Legislative and Regulatory Process Clinic

March 8, 2023

RE: Sam Krevlin, NYU Law '23

Your Honor:

I am a member of the faculty at the New York University School of Law, and I am very pleased to recommend one of my students, Sam Krevlin, for a clerkship in your chambers.

Sam was an outstanding student in the Fall 2022 Legislative and Regulatory Process Clinic, which I co-direct along with Professor Sally Katzen. The semester offers students, admitted on application, an opportunity to learn through full-time externships about the various roles of lawyers in advising on, supporting and influencing the policymaking process in the federal government. We work with them in an academic setting in three-hour weekly seminars and, through ongoing contact with their workplace supervisors, monitor their performance in their lawyering support roles. At the end of the semester, the students submit a 20 to 25 page paper on an approved topic.

Sam excelled. He was accepted into a position on the U.S. Senate's Permanent Subcommittee on Investigations, chaired by Senator Jon Ossoff of Georgia. The office had the highest praise for the quality of his work. The clinical experience is intensive, requiring students to support the office as they would if they were permanent staff, and Sam was credited with making significant contributions. These included his recommendations at the end of his externship for potential areas for investigative focus in the next session. His work earned him an "A" for this graded element of the clinic.

In class, Sam was also a top performer. At the time of this writing, Sam and the other students are just submitting the final versions of their papers. However, I can certainly say that based upon the draft and his class contributions, he will do exceedingly well in his graded academic work.

Sam is thoughtful, careful in the framing of questions and comments, curious, and probing in exploring all sides of an issue. We always look for a student's capacity to listen carefully to the views of others and to respond constructively. Sam was a delightful and stimulating participant in our discussions.

For all of these reasons, I can unreservedly recommend Sam for a clerkship, and I would be pleased to answer any questions you have or provide any other information helpful to your consideration of Sam’s clerkship candidacy.

Respectfully,

Robert F. Bauer

centerforconstitutionalrights

March 16, 2023

RE: Sam Krevlin, NYU Law '23

Your Honor:

I am the Legal Director of the Center for Constitutional Rights (CCR), a national impact litigation and advocacy organization, where I supervise work related to racial justice, prisoners' rights, immigrants' rights, LGBTQI+ rights, and rights of Guantanamo detainees and victims of torture. Prior to this position, I was a tenured law professor at Seton Hall Law School, where I taught Constitutional Law for ten years and directed a Constitutional Law Clinic. Currently, I am an Adjunct Professor at NYU and Yale Law Schools, where I teach an intensive course on Civil Rights Law.

I am writing to support the application of Sam Krevlin for a clerkship in your chambers. Sam was a student in an intensive four-credit Civil Rights Law course I taught at NYU in the Fall 2021 –covering theory and practice of Section 1983, *Bivens*, immunities and defenses for state, municipal and federal actors, modes of liability under *Monell*, other Reconstruction-era civil rights statutes (1981, 1982, 1985(3)), standing and damages (all of which would be an important knowledge base for a clerkship). Throughout the semester in class, Sam revealed himself to be quick and fluid in discussing complex doctrinal materials and had a positive ability to see connections among doctrinal threads we studied weeks or months apart. When on call, he presented the material with lucidity, reflection and careful recall. He has a thoughtful communication style that seems to reflect self-awareness, maturity and an appropriate balance between rigorous attention to detail and interest in political-legal context. I reviewed his exam which was excellent, even by NYU standards: clear, unlabored writing and analysis.

Sam brings a deep passion for the possibility of law to drive positive social change and presents himself with humility about learning legal doctrine and legal strategy. I was consistently impressed with the curiosity behind his questions – that came for a genuine thirst for understanding and appreciation of nuance.

On an interpersonal level, he is kind, mature and collegial. I believe he would make a productive and positive contribution to your chambers and urge you to give him consideration.

Very truly yours,

/s/ Baher Azmy

Baher Azmy

666 broadway, 7 fl, new york, ny 10012
t 212 614 6464 f 212 614 6499 www.CCRjustice.org

U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street, 3rd Floor
New York, NY 10007

February 21, 2023

Re: *Recommendation of Sam Krevlin*

Dear Judge:

I am writing to recommend Sam Krevlin for a clerkship in your Chambers. Sam interned with Assistant United States Attorneys in our Civil Division during the Spring 2022 semester as part of New York University Law School's Government Civil Litigation Clinic. I co-teach the class, which meets for two hours a week for classroom discussion, and keep apprised of the approximately twelve to fifteen hours of work per week done by the interns with their assigned AUSAs. Prior to becoming an Assistant United States Attorney in 2000, I clerked for the Hon. Kimba M. Wood of the Southern District of New York, and the Hon. Wilfred Feinberg of the U.S. Court of Appeals for the Second Circuit. Based on my own years as a law clerk, my classroom experience with Sam, and my discussions of him with the AUSAs for whom he worked, I believe that Sam would make an excellent law clerk.

Sam is smart, perceptive, and hard-working. As a budding litigator, Sam sees things pragmatically, and presents legal arguments in a down-to-earth manner. In reviewing Sam's law school transcript, it is striking that his strongest performance came when his coursework transitioned away from doctrinal classes and toward more practical work. Sam's best performances in the clinic came when he was able to present orally, as Sam demonstrates a solid grasp of the facts and law and speaks fluidly and confidently. In particular, he gave a compelling mock opening in a False Claims Act case involving Medicaid/Medicare fraud by a major pharmaceutical company, the most difficult of the opening argument assignments that we give to students, on account of the complexity of the case, the vast amount of information that needs to be synthesized into a brief, ten-minute presentation, and the fact that the conduct of his client at first seems to be completely unsympathetic. For the writing assignment in the class, a mock reply brief to a summary judgment motion, Sam's work was pithy, sharp, effective, and persuasive — most of the criticisms that my co-teacher and I had on his paper related to matters of form that students frequently encounter when writing a reply brief for the first time, specifically that preliminary statements on reply should be very short, and a statement of facts is generally unnecessary. These issues can be readily addressed, but the acuity and fluidity that Sam displays in his written work are much harder to learn.

In addition to the seminar, Sam was assigned to work with two AUSAs. One aspect of the clinic that challenges law students is that AUSAs are typically working on numerous complex matters simultaneously. To keep on top of the work, an intern must be able to address questions as they arise under very different statutes and involving wildly disparate facts, all while keeping

two different supervisors operating under tight deadlines happy. Sam's AUSA supervisors characterized him as "fantastic" and "my favorite intern yet," based upon his engagement with the work of the Office, his eagerness to take on assignments and attend court conferences and depositions, his rapid turnaround on projects, and his conscientiousness in checking in to obtain additional assignments. In addition, after the seminar concluded, Sam went to work for the Senate Permanent Subcommittee on Investigations in Washington, D.C. where, it turns out, he happened to work for a period of time with a former AUSA from this Office. That former AUSA, who was one of the toughest critics of interns that I assigned him while he was in the Office, advised me that he was also favorably impressed with Sam in the time that they worked together.

For all of these reasons, I strongly recommend Sam as a law clerk. Please do not hesitate to contact me at the number below if you have any further questions.

Sincerely,

\s\ David J. Kennedy

David J. Kennedy
Assistant United States Attorney
Tel. No. (212) 637-2733
Fax No. (212) 637-0033

Note: This writing sample was submitted for a class in conjunction with the Civil Division at the U.S. Attorney's Office for the Southern District of New York. I was assigned to write a reply to the Government's motion for summary judgement. The writing sample incorporates feedback from the professors of the seminar by addressing the collateral estoppel and res judicata arguments first and combining those arguments into one section.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X
ROBERT CARVAJAL,

Plaintiff,

- against –

HUGH DUNLEAVY, in his Individual and Official Capacities, DON MIHALEK, in his Individual and Official Capacities, TIMOTHY RAYMOND, in his Individual and Official Capacities, TOM RIZZO, in his Individual Capacity, DANIEL HUGHES, in his Individual Capacity, TREVA LAWRENCE, in his Individual Capacity, JOHN TANI, in his Individual Capacity, and DON McGEE, in his Individual Capacity,

Defendants.
----------X

REPLY MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

THE LAW OFFICE OF SAM KREVLIN
40 WASHINGTON SQ
NEW YORK, NY 10012
Telephone: (917) 763-4123

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Plaintiff respectfully submits this reply memorandum of law in opposition to the Government's motion for summary judgment.

PRELIMINARY STATEMENT

Robert Carvajal ("Plaintiff") is a victim of a botched and ill-prepared raid in which Secret Service Agents ("Agents") resorted to deadly and unjustifiable force only seconds after entering the apartment front door. The Agents shot at Mr. Carvajal knowing persons unaffiliated with a money laundering operation may have resided in the home. Because of Defendants' deliberate indifference to Mr. Carvajal's life, he may never obtain the physical or mental strength to engage in the same forms of employment or recreational activity as he once did.

Mr. Carvajal brought this action against the Agents in their individual capacities under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

Despite the strength of Mr. Carvajal's claim, the Government has taken the unusual step of moving for summary judgment before discovery has commenced. To grant the motion before any discovery would allow the blatant use of excessive and unjustifiable force to stand without any repercussions. Granting summary judgment is especially unwarranted, premature, and contrary to our system of justice because genuine issues of material fact remain.

Although every material fact is in dispute, the Government makes three arguments in its motion for summary judgement: (1) under the doctrine of collateral estoppel; (2) under the doctrine of *res judicata*; and (3) under the doctrine of qualified immunity.

The collateral estoppel and *res judicata* arguments fail because the amount of force used by Defendants in executing the warrant was never at issue when parties litigated a motion to suppress evidence. Thus, certain issues raised by Plaintiff in this action have never before been

litigated. Testimony on force given at earlier proceedings paint an incomplete picture of the day's events.

Lastly, the qualified immunity argument also fails because Defendants' use of deadly force was clearly excessive. No reasonable factfinder could conclude that Defendants were acting reasonably under the circumstances and "[t]he obvious cruelty inherent in [Defendants' actions] should have provided some notice that their alleged conduct" was unconstitutional. Hope v. Pelzer, 536 U.S. 730, 745 (2002).

STATEMENT OF FACTS

Plaintiff Robert Carvajal received three gun-shot wounds and nearly died at the hands of Secret Service Agents. Guns drawn with a "shoot first, think later" approach to policing, Secret Service Agents thought little of Fourth Amendment protections when they charged through the door with a battering ram at 6:00 AM on February 9, 2004. To make matters worse, Secret Service Agents were never authorized to arrest Mr. Carvajal. Rather, the arrest warrant was for Joseph Carvajal, the brother of Mr. Carvajal. (Hr. 108).

Since late 2003, the Secret Service had been investigating Joseph Carvajal for counterfeiting currency and narcotics distribution. (Trial Tr. at 225-26, 280-81). With the help of Mark Crump, a confidential informant who was promised leniency in return for information, the Secret Service began to surveil Joseph Carvajal's activity through telephone conversations and in-person meetings. (Id). Throughout the investigation, the Secret Service only encountered Mr. Carvajal one time and no illegal activity occurred. (Trial Tr. at 233). Prior to the raid, Mr. Carvajal had no criminal history. (Compl. at 3).

At 6:00 AM on February 9, 2004, the Agents bulldozed through the front door of Joseph Carvajal's apartment. Upon hearing the battering ram, Mr. Carvajal woke up and walked towards the front door. Then, without any warning from the Agents, Mr. Carvajal was shot and dropped immediately to the floor. After falling to the ground, a second shot was fired.

Agent Mihalek testified that there were "two individuals in the back of the apartment, one individual in front holding a gun, the other individual in the back holding a large object. They moved from my right to my left to where the first two agents were headed into the kitchen-dining room area." (Tr. 252). Mihalek testified that he shot Mr. Carvajal as he headed towards the kitchen to discard both a gun and printer through an open window. (Tr. 253).

The evidence does not corroborate Mihalek's version of events. Agents outside the building observed a gun and printer fall nine seconds after the first shot was fired. (Tr. 334). Thus, according to the Government's version of events, Mr. Carvajal (after suffering multiple bullet wounds) had the physical fortitude to walk across the apartment, throw two heavy objects out of a window, and return to where he was treated by police.

Mr. Carvajal is alive after being shot multiple times but still suffers permanent physical and emotional injuries.

ARGUMENT

I. THE DOCTRINES OF COLLATERAL ESTOPPEL AND *RES JUDICATA* DO NOT APPLY IN THIS CASE

The Government argues that Plaintiff is collaterally estopped from litigating certain issues in this case because those issues were supposedly litigated in a motion to suppress evidence. This argument fails because the issues decided in that case have no bearing on the current one. The Government cites Judge Hellerstein's finding that the search complied with the Fourth Amendment because the Agents had a "reasonable suspicion of exigent circumstances" given the fact that they were searching for easily disposable items. See United States v. Banks, 540 U.S. 31 (2003); Hearing Tr. at 97-98, 109-10.

However, the suppression hearing pertained to the items recovered as a result of the executed search warrant. The trial court judge only made determinations on the validity of the search warrant and seizure of the items. Judge Hellerstein did not decide or even evaluate the issue of excessive force.

The Government mischaracterizes the earlier hearing. If anything, Judge Hellerstein was sympathetic towards Mr. Carvajal's claim of excessive force. The Judge found that excessive

force likely existed but did not make a final ruling on the issue because it was not the proper forum to do so.

Judge Hellerstein said that

> "[i]f there's any impropriety with regard to the firing of the weapons, then maybe it's the subject of a different proceedings [sic], but they're not grounds to suppress anything that was seized. And in the context of the entry, a lot more information would have to be presented in relationship to that which the officers considered reasonable in the circumstance in terms of their reasonable fears and their reasonable cautions." (Hr. 108-9)

Judge Hellerstein's opinion aligns with Mr. Carvajal's belief that excessive force has yet to be litigated and the prior hearing was not the proper venue to make such a claim. Other courts agree with Judge Hellerstein's assessment. See e.g., Weinmann v. McClone, 138 F. Supp 3d. 1043, 1046 (E.D. Wis. 2015) (holding that excessive force was not actually litigated in a motion to suppress on the reasonableness of entering a garage without a warrant).

The purpose of collateral estoppel is to ensure that parties do not relitigate legal or factual issues in a second proceeding when the issue was already "actually litigated" and "actually decided." Because Judge Hellerstein specifically acknowledged that the issue of excessive force was not "actually decided," the Government's claim is without merit. Grieve v. Tamerin, 269 F.3d 149, 153 (2d Cir. 2001).

The question of *res judicata* is whether the litigant had the opportunity to obtain review of a contested issue in the earlier proceeding. See, e.g., Federated Dep't Stores, Inc. v. Moitie, 452 U.S. 394, 398 (1981) ("A final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action.").

The Government faults Mr. Carvajal because he did not raise excessive force claims in his underlying criminal proceeding. They claim it should have been raised because excessive

force arises from the same "nucleus of operative fact." Waldman v. Village of Kiryas Joel, 207 F.3d 105, 108 (2d Cir. 2000).

The same argument that applies to collateral estoppel applies to *res judicata*. Excessive force was not decided in the earlier proceeding. Furthermore, Mr. Carvajal raised the issue of excessive force as it related to the seizure of items in the earlier proceeding. (Hr. 108). Ultimately, as implied in Judge Hellerstein's opinion, now is the proper time to review the claim of excessive force.

II. THE SECRET SERVICE AGENTS ARE NOT ENTITLED TO QUALFIED IMMUNITY

The Second Circuit has held that to defeat a defense of qualified immunity, a plaintiff must demonstrate that "no reasonable officer would have made the same choice." Lennon v. Miller, 66 F.3d 416, 426 (2d Cir. 1995). Qualified immunity protects "all but the plainly incompetent or those who knowingly violate the law." Hunter v. Bryant, 502 U.S. 224, 229 (1991).

However, "when an officer is alleged to have engaged in behavior [that] is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience," that officer may not benefit from the qualified immunity defense. County of Sacramento v. Lewis, 523 U.S. 833, 847 n.8 (1998). In this case, "[t]he obvious cruelty inherent in this practice should have provided [Defendants] with some notice that their alleged conduct" was unconstitutional. Hope, 536 U.S. at 745.

The Government's actions were so egregious and unwarranted because the Agents shot Carvajal multiple times just seconds after entering the apartment. The Government's account that

Mr. Carvajal was headed to an open window in the kitchen is no justification for the shooting. Mr. Carvajal would not have posed a threat to the Agents since he was moving away from the shooter. Furthermore, Mr. Carvajal vehemently denies holding any weapon during the raid. Given these key disputes, this case must proceed to trial before a factfinder.

The Government contends that it was reasonable for officers to shoot seconds after invading the home because "they came to the apartment fully aware that Joseph had a lengthy criminal history involving firearms." *See* Brief for Defendant for Summary Judgement at 20, Carvajal v. Dunleavy, 1:07-cv-00170-PAC (S.D.N.Y. July 6, 2007). It is clear that the officers are trying to escape liability through Plaintiff's association with his brother. If this line of reasoning were to be accepted, then it would be difficult for any person living with a formerly incarcerated person to seek justice for an unjustified act of excessive force. Lives would be jeopardized through sanctioning a "shoot first" practice whenever a raid involves a person with a history of firearm charges.

The Government also completely mischaracterizes Thompson v. Hubbard, 257 F.3d 896 (8th Cir. 2001) (granting an officer qualified immunity after incorrectly believing a victim was armed). Police officers in Thompson were responding to a report of shots fired and two suspects fleeing on foot from the scene of an armed robbery. In Thompson, police were responding to an active shooting and Thompson fit the description of the robbery suspect. In this case, Defendants were the first and only ones to use deadly force. The decision to grant qualified immunity is highly fact specific. It was unreasonable in the present case for officers to disregard their training and shoot before identifying the target when they knew that multiple people lived in the home. See Mullenix v. Luna, 577 U.S. 7 (2015) (Sotomayor, J., dissenting) (criticizing the police officers who shot at a fleeing car when instructed to "stand by").

The Government's citation to Tennessee v. Garner is equally off base. 471 U.S. 1 (1985). The Court in Tennessee held that force may be used if "it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others." Id. at 3. However, in the present case, police targeted Mr. Carvajal without assessing whether he posed a threat during flight. Mr. Carvajal was shot only seconds after the Agents barged through the front door. Based on the record, Mr. Carvajal would not have posed a threat to the officers as his back would be facing away from them while trying to discard an "object." Furthermore, it is unlikely that Mr. Carvajal was "escaping," as jumping out of the window would have led to death or bodily harm. It was unreasonable for officers to believe Mr. Carvajal posed a significant threat and the possibility that he would attack the Agents is completely unjustified.

Ultimately, the Government's brief fails to even address the adequacy of Mr. Carvajal's claims of excessive force. It hides behind the doctrine of qualified immunity only to come up short because of how egregious the Agents acted in almost killing Mr. Carvajal.

III. GENUINE ISSUES OF MATERIAL FACT PRECLUDE SUMMARY JUDGMENT

On a motion for summary judgment, the moving party bears the burden of establishing that there are no genuine issues of material fact in dispute. See, e.g., Consarc Corp v. Marine Midland Bank, 996 F.2d at 572 (2d Cir. 1993).

Almost every significant fact pertaining to Mr. Carvajal's near death experience is in dispute. Even the fact that Mr. Carvajal held a gun before being shot is in dispute. Mr. Carvajal denies ever possessing a gun during the raid. At this stage in the litigation, the Court must accept Plaintiff's version of the facts as true. See Angelastro v. Prudential-Bache Securities, Inc., 764

F.2d 939, 944 (3d Cir. 1985). Given the genuine dispute over the critical question of whether Mr. Carvajal was armed at the time of the shooting, summary judgment is wholly inappropriate.

Whether Carvajal possessed a gun is not the only issue in dispute. Mr. Carvajal disputes the adequacy of the training that Agents received prior to the raid; he disputes how many times the Agents knocked on the front door; he disputes the announcement of their presence; and he disputes that the recovered gun fell from apartment 6D. Furthermore, the Government and Mr. Carvajal dispute where the shooting occurred. This is significant because Mr. Carvajal could have been deemed a threat if he had been moving towards law enforcement.

This case not only turns on material facts that are in dispute, but the evidence recovered from the crime scene suggests that Mr. Carvajal's account of events is the most accurate.

Mihalek claims that he saw Mr. Carvajal and his brother standing in the hallway outside of the bedroom and then move towards the kitchen. Agent Mihalek claims to have shot Mr. Carvajal as he headed towards the Agents in the kitchen. (Tr. 253). However, based on the layout of the apartment, these facts are heavily disputed. The layout suggests that Mr. Carvajal did not approach the kitchen window to discard an object. This is because Mr. Carvajal would not have been able to enter the kitchen without running into Mihalek. (Tr. 251).

Furthermore, Mr. Carvajal was found on the floor bleeding in a location that does not fit Mihalek's description of events. (Tr. 251). The Agents assert that Mr. Carvajal threw objects out of the kitchen window of 6D. Mr. Carvajal disputes possessing a weapon and discarding that weapon through the kitchen window. The facts verify Mr. Carvajal's version of events. It is unlikely that he would have had the strength to walk seven feet, throw objects out the window, and return to the location where he was found bleeding from gunshot wounds. Agents outside the

apartment building did not see whether the objects fell from apartment 6D or 16D, whose occupants were also part of the money laundering scheme.

Because there are genuine disputes regarding basic facts critical to this case, the Court cannot grant summary judgment to Defendants.

CONCLUSION

For the foregoing reasons, the Court should deny the Government's motion for summary judgment.

Dated: New York, New York
March 23, 2022

Respectfully submitted,
Sam Krevlin
THE LAW OFFICE OF SAM KREVLIN
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Date of BA/BS	**May 2021**
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Date of JD/LLB	**May 1, 2024**
Class Rank	**School does not rank**
Law Review/Journal	**Yes**
Journal(s)	**Duke Journal of Constitutional Law & Public Policy**
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Moot Court Name(s)	

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

Margaret Kruzner
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June 11, 2023

The Honorable Jamar K. Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510

Dear Judge Walker:

I am writing to apply for a clerkship for the 2024–25 term. I am a second-year student at Duke Law School. I expect to receive my J.D. in May of 2024 and will be available to begin work any time after that date. I am keenly interested in evidence and civil procedure and am thrilled at the opportunity to work in a United States District Court, especially in one as active as the Eastern District of Virginia. Additionally, I hope to learn from your experience as an Assistant United States Attorney, as I hope to have a career in government litigation in the future.

My research, writing, and editing experiences will make me a successful law clerk. Last semester, I enhanced my writing skills in the course Appellate Practice, where I produced an eight-thousand-word appellate brief under the instruction of North Carolina Solicitor General Ryan Park. I also serve as the Managing Editor of *Duke Journal of Constitutional Law and Public Policy*. In the position, I have strengthened my editing skills and my ability to manage large projects with a team. I also published a forty-page commentary analyzing the potential outcomes in the *Students for Fair Admissions* litigation before the Supreme Court.

I thrive in a fast-paced courtroom environment. Prior to attending law school, I worked at the Spokane County Prosecutor's Office, where I assisted prosecutors on complicated cases involving co-defendants and child victims. I built on my trial experience last summer at Legal Aid of North Carolina, where I drafted complaints for over fifty domestic violence clients, argued successful evidentiary motions, and even advocated for a consent decree with my Student Bar License. These experiences form my perception of the law: that it should protect the most vulnerable in a predictable manner. As your clerk, I will value the role of precedent faithfully and be mindful of the real-world impact of your rulings and orders.

Enclosed are copies of my resume, Duke Law transcript, writing sample, and letters of recommendation from Professors Emilie Aguirre, Stuart Benjamin, and H. Jefferson Powell. Please contact me if you need any additional information. Thank you for your consideration.

Sincerely,

Margaret Kruzner

MARGARET KRUZNER
Durham, NC | margaret.kruzner@duke.edu | (206) 910-7554

EDUCATION

Duke University School of Law, Durham, NC
Juris Doctor, expected May 2024
GPA: 3.62
Honors: C. Wells Hall Scholarship Recipient
Public Interest and Public Service Law Certificate Candidate
Twiggs-Beskind Cup, Outstanding Mock Trial Competitor
Activities: Moot Court Board, *President*
Duke Journal of Constitutional Law and Public Policy, *Managing Editor*
Mock Trial Board, *Member*
Duke Bar Association, *3L Representative, Internal Vice President*
The Clemency Project, *Pro Bono Volunteer*

Gonzaga University, Spokane, WA
Bachelor of Arts in Criminal Justice and Political Science, *summa cum laude*, May 2021
GPA: 3.96
Honors: Dr. Georgie Ann Weatherby Leadership Award
Outstanding Mock Trial Attorney, Awarded by the American Mock Trial Association, Yale University, the University of Oregon, and others.
Pi Sigma Alpha—National Political Science Honors Society, *Member*
Alpha Sigma Nu—Honor Society of Jesuit Universities, *Member*
Activities: Mock Trial, *President* (2019–20), *Tournament Coordinator* (2018–19)

EXPERIENCE

Kirkland & Ellis LLP, Washington, DC
Summer Associate, May 2023 – Jul. 2023

- Drafted supplemental memorandum in support of motion for vacatur.
- Conducted statutory research and outlined preliminary briefing on novel state statute.
- Created internal memoranda on standing, sufficiency of pleadings, and abstention.

Legal Aid of North Carolina, Durham, NC
Domestic Violence Unit Intern, May 2022 – Jul. 2022

- Represented four clients with the North Carolina Bar Student Practice Certification.
- Conducted client interviews and organized intake evidence for four staff attorneys.
- Drafted amended complaints and motions for over fifty litigants.
- Negotiated a successful consent order between a client and a represented defendant.
- Argued a successful motion for order compelling discovery.

Spokane County Prosecutor's Office, Spokane, WA
Victim/Witness Unit Intern, Trial Intern, Jun. 2019 – Sep. 2019

- Synthesized victim and witness statements into summary reports for over twenty prosecutors across the major crimes, gangs, and domestic violence units.
- Organized evidence in three co-defendant trials for prosecutors in the major crimes unit.

ADDITIONAL INFORMATION

First Generation Law Student. German Speaker. Seattle Mariners Superfan. Puzzle Enthusiast. Academic Interests in Administrative Law and Civil Procedure. Published in *DJCLPP Sidebar*.

MARGARET KRUZNER

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Durham, NC 27708

(206) 910-7554
margaret.kruzner@duke.edu

4435 28th Ave W
Seattle, WA 98199

UNOFFICIAL TRANSCRIPT
DUKE UNIVERSITY SCHOOL OF LAW

2021 FALL TERM

COURSE TITLE	PROFESSOR	GRADE	CREDITS
Civil Procedure	Levy, M.	3.7	4.50
Criminal Law	Coleman, J.	3.3	4.50
Torts	Guttel, E.	3.3	4.50
Legal Analysis, Research, Writing	Hanson, M.	*Credit Only*	0.00

2022 SPRING TERM

COURSE TITLE	PROFESSOR	GRADE	CREDITS
Constitutional Law	Powell, J.	4.1	4.50
Contracts	Aguirre, E.	4.0	4.50
Administrative Law	Benjamin, S.	3.7	3.00
Legal Analysis, Research, Writing	Hanson, M.	3.4	4.00

2022 SUMMER TERM

COURSE TITLE	PROFESSOR	GRADE	CREDITS
J.D. Professional Development	N/A	*Pass*	0.00

2022 FALL TERM

COURSE TITLE	PROFESSOR	GRADE	CREDITS
Property	Foster, A.	3.5	4.00
Corporate Crime	Buell, S.	3.6	4.00
Appellate Practice	Park, R.	3.6	3.00
Ethics	Martinez, V.	3.5	3.00

2023 WINTER TERM

COURSE TITLE	PROFESSOR	GRADE	CREDITS
U.S. Civil/Military Relations	Dunlap, C.	*Credit Only*	0.50
Mindfulness for Law Students	Raker, K.	*Credit Only*	0.50

2023 SPRING TERM

COURSE TITLE	PROFESSOR	GRADE	CREDITS
Federal Courts	Young, E.	3.5	5.00
Civil Rights Litigation	Miller, D.	3.6	3.00
Evidence	Stansbury, S.	3.9	3.00
Privacy Law & Policy	Dellinger, J.	3.8	3.00

2023 SUMMER TERM

COURSE TITLE	PROFESSOR	GRADE	CREDITS
J.D. Professional Development	N/A	*Pass*	0.00

TOTAL CREDITS: 58.50
CUMULATIVE GPA: 3.62

Duke University School of Law
210 Science Drive
Durham, NC 27708

June 12, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Re: Margaret Kruzner

Dear Judge Walker:

Margaret Kruzner has asked me to write you in support of her application for a clerkship. I am delighted to do so. Ms. Kruzner was an excellent classroom participant in the constitutional law class she took with me in her 1L year, and she wrote a spectacularly good exam. I am certain she would be an outstanding clerk.

In the spring semester 2022, I had ninety-six students in Constitutional Law I. The great majority of class meetings in that course involve students arguing different sides of a case or issue, so that at any given time the student who has the floor is responding not only to my questions, but also to classmates' arguments. Given the size of the class that spring, I assigned each student a single assignment for which he or she had primary responsibility. As is almost always true (regardless of class size), there were numerous opportunities for students to answer questions stumping the day's presenter and contribute to the discussion in other ways. Ms. Kruzner was an active and outstanding participant in the classroom. She was well-prepared and adept on her day as presenter, and frequently helped out in insightful ways on other days when classmates were having difficulty.

Despite the importance of the classroom work, the final grade in Constitutional Law I is based primarily on the final examination, which I blind grade, and only after those scores are set do I learn the students' identities. Ms. Kruzner's answers, both in the fact pattern/legal problem part of the exam, and in the thematic essay that is the final question, were truly remarkable. I make sparing use of Duke's above 4.0 grading option, but it was obvious to me that she had earned such a grade.

I don't know Margaret Kruzner outside the context of class and office hours, but my sense is that she is an engaging person with whom it would be a pleasure to work. I do know that she is tremendously excited about becoming a litigator, and her resume proves that she is energetic and involved in law school. I recommend her to you with the greatest enthusiasm.

If it would be helpful in your consideration of Ms. Kruzner's application, I would be very glad to speak with you or someone else in your chambers.

Respectfully yours,

H. Jefferson Powell
Professor of Law

Jeff Powell - POWELL@law.duke.edu - 202-994-4691

Duke University School of Law
210 Science Drive
Durham, NC 27708

June 12, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Re: Margaret Kruzner

Dear Judge Walker:

I write to give my wholehearted recommendation for Margaret Kruzner's clerkship application. Margaret will make a fantastic clerk: she is brilliant and diligent, deeply thoughtful, and impressively articulate. She is also a wonderful person who will be an excellent addition to any chambers fortunate enough to gain her as a clerk.

Margaret was one of the very best students I taught in 1L Contracts last year. She not only earned a top score on an extremely competitive exam, she was also wonderfully engaged and thoughtful all semester long. Margaret earned an overall grade of 4.0, the third-highest grade in the class. This score reflected an excellent exam performance across three questions that called for extremely different styles of analysis. It also reflected a perfect participation grade, comprised of stellar in-class oral advocacy, consistent cold-call preparation, and turning in every assignment on time. It is rare to perform so highly across such a range of metrics. Indeed, I design my assessment deliberately to evaluate students along several dimensions to enable differentiation among them and to allow them an opportunity to shine on their individual strengths. Margaret achieved a (rare) excellent and sustained multi-dimensional performance across many metrics over several months.

In class and in office hours, Margaret deftly grasped a complex set of materials, engaging deeply with the readings, impressively drawing connections across disparate concepts, and extrapolating doctrinal learnings from class to real-world lawyering examples. Margaret also played a key role in the section, asking relevant questions that helped clarify the material not only for herself but also for her classmates. Doing so in a classroom of fifty students takes a degree of confidence, bravery, and humility that is rare among 1Ls, but which Margaret accomplished with skill and grace.

Margaret is also uniquely thoughtful and mature. She is the first in her family to attend law school and has a wisdom beyond her years. Margaret excels at breaking down complex ideas into understandable terms (experience that will be immensely valuable to bench briefs). She is also deeply personally committed to diversifying the practice of law and making it as accessible as possible to historically under-represented groups.

Margaret already has significant exposure to both civil and criminal practice, beyond the norm for a second-year law student. She has done impressive work at the County Prosecutor's Office in Spokane, Washington, and at Legal Aid of North Carolina, working on three big co-defendant trials and arguing multiple evidentiary motions. By the end of her time at Legal Aid, Margaret was responsible for her own client, ultimately negotiating, drafting, and executing a consent order with Spanish-speaking parties to resolve the case. She has worked across rural and urban counties and received exposure to various judges across a spectrum of practices and ideologies.

Margaret is deeply and admirably involved in extracurricular activities. She is the Managing Editor of the Duke Journal of Constitutional Law & Public Policy (DJCLPP), has participated in mock trial for two years, and has served on the moot court board almost her entire time at Duke Law. Margaret recently published an impressive piece in on the court's role in Article III. She is a skilled and persuasive writer and is hard at work on other scholarly projects. She has also worked to expand the accessibility of moot court, including starting a suit donation program for Duke Law students who do not otherwise have suits to participate, and she has expanded the diversity, equity, and inclusion training for the organization.

Margaret is also simply a wonderful person. She has an infectious positive energy, kind spirit, and radiating warmth. She is also delightfully well-rounded. For as many substantive conversations as we have had about contract law doctrine, her writing endeavors, and the practice of law, we have also discussed the sociological and psychological ramifications of reality television (Survivor and the Bachelor are fascinating in this arena!), our shared love of Major League Baseball and March Madness, the joy of Jeopardy, and her designation as the best German language student in the entire state of Washington during sophomore year of high school.

At the end of their first year, I asked every student to share an anonymous positive reflection on another student in the section. Margaret's peers (accurately) remarked on her warmth, her kindness, and her generosity in sharing her time and materials to help others understand challenging content. They described her "warm presence that immediately puts everyone at ease," and her "sense of self beyond her years." One student described Margaret as "truly one of the most genuine people I've ever met." I could not agree more with these assessments. They reflect Margaret's intelligence, generosity, and maturity, as well as her grounded presence. She is not only a wonderful student and institutional citizen, but also a highly regarded friend and classmate.

Emilie Aguirre - aguirre@law.duke.edu - 919-613-7200

Margaret Kruzner will excel as a clerk. I offer her my highest recommendation. Please not hesitate to contact me if I can offer any additional information in support of Margaret's candidacy.

Very best,

Emilie Aguirre
Associate Professor of Law

Emilie Aguirre - aguirre@law.duke.edu - 919-613-7200

Duke University School of Law
210 Science Drive
Durham, NC 27708

June 12, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Re: Margaret Kruzner

Dear Judge Walker:

I am writing to encourage you to hire Margaret Kruzner as a law clerk. I think highly of her, and I think she will be a very good clerk.

Maggie did something a bit bold in spring 2022: she took my Administrative Law class in her first year. This is a new option at Duke (my spring 2022 offering of the class was the first time that first-year students had been allowed to take it), and few first-year students took it – the vast majority of the students in the class were second- and third-year students. To be blunt, it was fairly clear to me who the first-year students were: having had only one semester of law school, they did not have the same level of understanding and knowledge that the upper-level students did. Maggie was an exception. I call on students randomly and accept some volunteers, and I found that Maggie's comments in both situations were careful and insightful. She consistently demonstrated that she had reflected on the materials and thought through their implications. She evinced the analytical abilities that are characteristic of good lawyers and good law clerks – seeing and understanding the big picture while retaining a keen grasp of the details. I was unsurprised to see that her exam was very strong.

Maggie is the first person in her family to attend law school, but she has quickly and ably adjusted to the arguably strange world of law school. She does not get flustered. She works her way carefully and methodically through legal issues while bringing her considerable analytical skills to bear.

On the personal side, she is very engaging and personable. She takes ideas seriously but does not take herself too seriously. She is an unusually sincere person who has really impressive analytic abilities. She sees both sides of an argument and articulates her positions carefully without being arrogant or unpleasant. She demonstrates good judgment and is friendly even when she disagrees with others. I think she will fit in well in just about any chambers.

I clerked on two different courts and have known many clerks and judges over the years, and I believe I have a sense of the qualities that make for a good law clerk. Maggie has those qualities. She will be a very strong clerk.

Sincerely,

Stuart M. Benjamin
William Van Alstyne Professor of Law

Stuart M. Benjamin - Benjamin@law.duke.edu - (919) 613-7275

MARGARET KRUZNER
Durham, NC | margaret.kruzner@duke.edu | (206) 910-7554

WRITING SAMPLE:
DEFENDANT'S BRIEF IN RE DUTY TO PRESERVE

I drafted the attached writing sample as an assignment in my second semester Legal Analysis, Research, and Writing course in 2022. The assignment required drafting a trial brief analyzing when a party's duty to preserve evidence arises. I conducted all of the research necessary for the assignment. I received general feedback on this sample from my professor, but all edits are my own. Below is a brief description of the relevant facts:

The client, Underground Screenprinting Company, is a t-shirt manufacturer. In February of 2021, a competitor, Market Textiles, approached Underground to create a joint venture. Underground accepted Market's offer, and the companies combined their clientele and manufacturing operations. But the companies' excitement over the partnership was short lived, and soon, operations stalled and indebted the companies. Market sued Underground for the debt incurred on October 19, 2021, and Underground filed a counterclaim shortly thereafter.

During discovery, Market requested documents from Underground that Underground destroyed pursuant to its Network Use Policy. This brief argues that Underground had no duty to preserve documents until it received Market's Complaint on October 19, 2021.

INTRODUCTION

In February 2021, Underground Screenprinting Co. (Underground) and Market Textiles, Inc. (Plaintiff) entered a joint venture to weave, sew, and embellish t-shirts for high profile clients. Though both companies entered the partnership with experience in the industry, Plaintiff had difficulty manufacturing the t-shirts necessary for the project's orders. These problems led to costly back-charges from clients and left Underground and Plaintiff reeling to salvage the parties' enterprise. Then, Plaintiff unexpectedly commenced the present action. Because Underground did not know about these proceedings and could not reasonably foresee them prior to Plaintiff's filing, Underground's duty to preserve evidence arose when Plaintiff filed its Complaint on October 19, 2021.

FACTS

Before working with Plaintiff, Underground fulfilled monthly orders of over two million t-shirts to high-profile clients such as Nike. (Countercl. ¶ 7). To manage its operations, Underground implemented a Network Use Policy in March 2020. (Morales Aff. ¶ 4). The Policy, created by Underground's technology specialist, automatically deleted all employee emails after ninety days. *Id.* ¶¶ 3, 5.

In early 2021, Underground saw an opportunity to grow its business when Plaintiff, a major supplier of t-shirts to Fruit of the Loom, expressed interest in partnering with and eventually acquiring Underground. (Countercl. ¶¶ 10, 12). In

February 2021, the companies designed and entered a joint venture. (Countercl. ¶ 13). Underground sold its fabric-making operations to Plaintiff, who would weave and sew blank t-shirts for Underground. *Id.* Then, Underground would complete the screen-printing, packaging, and shipping required to fulfill client orders. *Id.*

From the beginning of the venture, Plaintiff had difficulty manufacturing the number of shirts necessary to fulfill Underground's large orders. (Countercl. ¶ 21). The shirts Plaintiff did manufacture were often defective (Countercl. ¶ 24) or contained the wrong size distributions for Underground's orders (Countercl. ¶ 19). Consequently, Underground had trouble fulfilling the orders. (Countercl. ¶ 23). Underground's clients began to back-charge Underground for delays and quality issues stemming from Plaintiff's manufacturing errors. (Countercl. ¶¶ 23–24). When Underground forwarded these charges to Plaintiff, Plaintiff refused to reimburse Underground. *Id.*

Underground sought to correct Plaintiff's manufacturing difficulties to restimulate normal profits. (Countercl. ¶ 16). To help Plaintiff, Underground relocated several employees to better train Plaintiff's in the manufacturing process. *Id.* In July 2021, Underground offered yarn ordering and operational assistance to Plaintiff at a management meeting. (Bezos Email, July 28, 2021). Underground was confident that these steps would improve the companies' production after

Plaintiff reassured Underground and their clients that Plaintiff's manufacturing performance would improve. (Countercl. ¶¶ 25–26).

In late July, Underground's President received an email from Plaintiff's CEO addressing the debt at issue. (Bezos Email, July 28, 2021). Plaintiff was friendly, opening the message with "[g]reat to see you." *Id.* Though Plaintiff informed Underground that it needed to be paid, Plaintiff recognized that the parties would "start exploring other options" if Underground could not reimburse Plaintiff. *Id.* Underground assured Plaintiff that it was doing its best to comply with Plaintiff's requests. (McIntyre Email, July 28, 2021).

In August 2021, Plaintiff approached Underground with its acquisition offer. (Countercl. ¶ 28). Though Underground rejected this offer, the companies remained in a partnership. *Id.* The following month, Plaintiff's CEO sent another email to Underground's President, acknowledging that both companies were "working [their] tails off to salvage" the partnership. (Bezos Email, Sept. 1, 2021). Plaintiff told Underground that it had to "come through on this one," and that "[t]he time is now, friend." *Id.* Then, on October 19, 2021, Plaintiff filed its Complaint against Underground. (Compl.). That same day, Underground retained counsel and filed its Counterclaim. (Morales Aff. ¶ 8). Counsel instructed Underground to pause its Network Use Policy immediately, and Underground

faithfully complied. *Id.* Since receiving Plaintiff's Complaint, Underground has retained all documents relevant to these proceedings. *Id.*

ARGUMENT

Underground's duty to preserve evidence arose on October 19, 2021, because Underground did not know about, nor should have foreseen, this suit prior to Plaintiff's Complaint.

Underground's duty to preserve evidence began on October 19, 2021, when Plaintiff filed its Complaint. "In most cases, the duty to preserve evidence is triggered by the filing of a lawsuit." *Cache La Poudre Feeds, LLC v. Land O'Lakes, Inc.*, 244 F.R.D. 614, 621 (D. Colo. 2007). A party is not under a duty to preserve until it "knows or should know that certain evidence is relevant to pending or future litigation." *Surowiec v. Cap. Title Agency, Inc.*, 790 F.Supp.2d 997, 1005 (D. Ariz. 2011). In determining whether a party knew of or should have foreseen litigation, "the court's decision must be guided by the facts of each case." *Cache*, 244 F.R.D. at 621.

Underground's contacts with Plaintiff demonstrate that Underground neither knew of, nor should have foreseen, Plaintiff's filing. First, Underground's lack of preparedness for litigation indicates that it had no knowledge that it would be involved in any legal proceedings with Plaintiff. Second, the nature of the parties' communications and business relationship prior to Plaintiff's filing render these proceedings unforeseeable to a reasonable party in Underground's position.

Accordingly, Underground's duty to preserve began with Plaintiff's filing on October 19, 2021.

A. Underground's duty to preserve began on October 19, 2021 because Underground had no knowledge of this suit before Plaintiff's filing.

Underground's lack of litigation preparation prior to October 19, 2021 demonstrates that it had no knowledge of this suit prior to Plaintiff's Complaint. Even without explicit evidence of a party's knowledge, a party's behavior before filing can reveal that it foresaw litigation to place it under an advance preservation duty. *See Micron Tech., Inc. v. Rambus, Inc.*, 645 F.3d 1131, 1321 (Fed. Cir. 2011) (holding that a party knew about litigation after it articulated a timeframe and "a motive for implementation of [its] litigation strategy."). For example, the court may infer that a party who seeks legal advice about its relationship with a potential adversary has knowledge of imminent litigation prior to filing. *See Surowiec*, 790 F.Supp.2d at 1006. By contrast, a party's adherence to its normal business practices does not indicate knowledge of litigation. *Micron*, 645 F.3d at 1319–20.

A party who takes "several steps in furtherance of litigation" prior to filing likely knows about litigation. *Id.* at 1323. In *Micron*, the defendant created a litigation strategy by identifying potential defendants and drafting claim charts before filing suit. *Id.* It also created a new document elimination policy, whereby employees would retain helpful documents and participate in "shredding part[ies]" to destroy unhelpful documents before it filed suit. *Id.* at 1324.

Here, Underground's total lack of preparation for suit before October 19, 2021 demonstrates that it had no knowledge of litigation prior to Plaintiff's Complaint. Throughout its relationship with Plaintiff, Underground never sought legal advice. Underground did not even retain legal counsel until it was served with Plaintiff's Complaint. Unlike the *Micron* defendant, Underground did not map potential claims or create a litigation strategy prior to Plaintiff's Complaint.

Moreover, Underground created its Network Use Policy in May 2020, nearly a year before its partnership with Plaintiff. Underground's Policy was not created by an attorney, but rather by its technology specialist to manage its large operations. Underground's routine compliance to its Policy in the days leading up to Plaintiff's Complaint demonstrates its adherence to normal business practices. This usage is entirely dissimilar to the *Micron* defendant's "shredding part[ies]," conducted specifically to prepare for litigation. 645 F.3d at 1324. Accordingly, Underground's behavior demonstrates that it had no knowledge of this suit before Plaintiff's Complaint.

B. Underground's duty to preserve began when Plaintiff filed its Complaint because a reasonable party in Underground's circumstances would not have foreseen litigation earlier.

Underground had no duty to preserve prior to this suit's filing because none of its contacts with Plaintiff rendered litigation reasonably foreseeable. A duty to preserve prior to filing arises only when a "reasonable party in the same factual

circumstances would have reasonably foreseen litigation." *Micron*, 645 F.3d at 1320. Though litigation need not be "imminent" for a reasonable party to foresee it, the "mere existence of a potential claim or the distant possibility of litigation" does not impose an early duty to preserve. *Id.* Determining whether litigation is foreseeable is an "objective" and "fact-specific" inquiry centered around the parties' contacts with one another. *Id.* Here, Plaintiff and Underground's communications and business relationship strongly support that a reasonable party in Underground's circumstances would not have foreseen litigation prior to Plaintiff's Complaint.

1. The parties' communications render litigation unforeseeable to a reasonable party in Underground's position.

Plaintiff's communications with Underground would not cause a reasonable party in Underground's position to foresee litigation prior to Plaintiff's Complaint. If any duty to preserve exists before filing, it "must be predicated on something more than an equivocal statement of discontent." *Cache*, 244 F.R.D. at 623. For example, a party that receives a "letter openly threaten[ing] litigation" has a duty to preserve evidence upon receipt of the letter. *Surowiec*, 790 F.Supp.2d at 1006. By contrast, a pre-filing communication that simply seeks "a business remedy for perceived business wrongdoing" does not render litigation foreseeable. *Cache*, 244 F.R.D. at 622. Similarly, communication that implies "willing[ness] to explore a negotiated resolution" does not automatically create an early duty to preserve. *Id.*

Even messages from an adversary's attorney regarding a legal dispute may not place a party under an early duty to preserve. *See Cache,* 244 F.R.D. at 622. For example, in *Cache,* the court recognized that litigation was unforeseeable prior to filing even after plaintiff's counsel informed defendant of a patent dispute. *Id.* In *Cache,* plaintiff's counsel called to inform defendant of its potential infringement of plaintiff's patent. *Id.* Shortly thereafter, plaintiff's counsel sent a letter to defendant to inquire if their conflict could be "resolved without litigation." *Id.* The following year, plaintiff's counsel reiterated that plaintiff would be open to non-legal resolutions of the dispute. *Id.* Then, two years after its initial call, plaintiff filed suit. *Id.* In recognizing that the defendant's duty to preserve began with plaintiff's filing, the court reasoned that the communications "must be more explicit and less equivocal" to impose an earlier preservation duty. *Id.* at 623.

Here, Plaintiff's communication with Underground about the debt in dispute can only be characterized as "equivocal statement[s] of discontent." *Id.* Plaintiff first mentioned finances to Underground in late July 2021. After Underground assured Plaintiff that it was working on payment, Plaintiff offered to acquire Underground and sent encouraging remarks. Plaintiff's only other mention of Underground's debt came two months later, when Plaintiff ambiguously suggested that Underground must "come through on this one." (Bezos Email, Sept. 1, 2021).

Litigation was significantly less foreseeable to Underground than to the defendants in *Cache*. While the *Cache* defendant received communications from the plaintiff's attorney discussing litigation as a possibility, Underground merely received emails from Plaintiff's CEO regarding a debt Underground was openly discussing and actively working with Plaintiff to repay. Plaintiff even suggested that the parties would "explor[e] other options" to settle Underground's debt (Bezos Email, July 28, 2021), implying Plaintiff's willingness to explore a "negotiated resolution," or a "business remedy for a perceived business wrongdoing." *Cache*, 244 F.R.D. at 622. Because Plaintiff's communications were equivocal and never placed Underground on explicit notice of litigation, litigation was unforeseeable and Underground had no duty to preserve prior to filing.

2. A reasonable party in Underground's position would not foresee litigation based on the parties' business relationship.

Plaintiff's congenial relationship with Underground further indicates that litigation was unforeseeable. "When parties have a business relationship that is mutually beneficial and that ultimately turns sour . . . litigation [is] less foreseeable." *Micron*, 645 F.3d at 1325. By contrast, litigation is more foreseeable when it occurs between parties who are "naturally adversarial." *Id.*

Here, Underground's venture with Plaintiff was created to be mutually beneficial. Both parties were primary suppliers to major companies such as Fruit of the Loom and Nike. As such, their planned acquisition would have eliminated

market competition in the t-shirt niche. Throughout the parties' relationship, Underground sent employees to help Plaintiff with manufacturing and assisted Plaintiff at management meetings. Plaintiff itself maintained the parties' affable relationship by assuring Underground on several occasions that its performance would improve. In August 2021, Plaintiff offered to acquire Underground, suggesting that the parties' initial relationship was unchanged by Underground's debt. Even after Underground rejected Plaintiff's offer, Plaintiff elected to remain in a partnership with Underground.

Beyond the structure of their relationship, the parties' communication further supports that Plaintiff and Underground's relationship was non-adversarial. Plaintiff's CEO regarded Underground's President as his "friend" and acknowledged that both companies were "working their tails off" to create a lucrative venture. (Bezos Email, Sept. 1, 2021). Accordingly, the parties' business relationship rendered litigation unforeseeable to a reasonable party in Underground's circumstances prior to filing, creating no advance duty to preserve.

CONCLUSION

Because Underground did not know of and should not have reasonably foreseen litigation before Plaintiff's Complaint was filed, this Court should find that Underground's duty to preserve arose on October 19, 2021.

Applicant Details

First Name	**Karen**
Last Name	**Kukla**
Citizenship Status	**U. S. Citizen**
Email Address	**kakukla@iu.edu**
Address	**Address** Street **1214 N Dunn St. Apt. 3** City **Bloomington** State/Territory **Indiana** Zip **47408**
Contact Phone Number	**7654763383**

Applicant Education

BA/BS From	**Purdue University**
Date of BA/BS	**May 2017**
JD/LLB From	**Indiana University Maurer School of Law** **http://www.law.indiana.edu**
Date of JD/LLB	**May 4, 2024**
Class Rank	**5%**
Law Review/Journal	**Yes**
Journal(s)	**IP Theory**
Moot Court Experience	**Yes**
Moot Court Name(s)	**2023 National Patent Application Drafting Competition** **Oxford International Intellectual Property Moot**

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	**No**

Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Professional Organization

Organizations	**Chiefs in Intellectual Property (ChIPs)**

Recommenders

Madeira, Jody
jmadeira@indiana.edu
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Janis, Mark
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Ochoa, Christiana
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812-856-1516

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Karen J. Kukla

Patent Bar Eligible | (765) 476-3383 | kakukla@iu.edu

June 5, 2023

The Honorable Jamar K. Walker
Walter E. Hoffman
United States Courthouse
600 Granby Street
Norfolk, VA 23510

Dear Judge Walker:

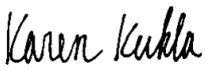
As a previous resident of Virginia and a rising third-year law student in the top 5% of my class at Indiana University Maurer School of Law, I am hopeful to begin my legal career as a judicial clerk in your Chambers starting in 2024 or 2025. I would welcome the opportunity to learn from your experience as a judge.

I have developed strong analytical, writing, and research skills in my prior positions and in my studies at Maurer. As a patent examiner, I established research and writing skills by searching for prior art and drafting office actions and other responses to inventors and attorneys. At Maurer, I am further strengthening these skills by writing in my patent trial litigation class, researching as an assistant for Professor Mark Janis, and as associate editor on *IP Theory* journal. I will continue to refine these skills as a summer associate for Kirkland & Ellis, LLP, during the summer of 2023.

As a full-time biomedical patent examiner at the USPTO, I collaborated with entrepreneurs, attorneys, and fellow examiners to process patent applications. To promote efficiency with each application, my writing for the opinions required concise, clear language. As a consultant, I worked in a fast-paced professional environment, leading multiple time-sensitive projects with accuracy. Furthermore, I cultivated my communication skills by regularly facilitating discussions with clients.

Enclosed please find my resume, writing sample, unofficial transcripts, and letters of recommendation. Thank you for your time and consideration. I hope to have the opportunity to speak with you.

Sincerely,



Karen Kukla

Karen J. Kukla

Patent Bar Eligible | (765) 476-3383 | kakukla@iu.edu

EDUCATION

Indiana University Maurer School of Law Bloomington, IN
Juris Doctor, GPA: 3.821/4.0, Top 5% May 2024

- Dean's Honors (Fall 2021, Spring 2022, Fall 2022, Spring 2023)
- Intellectual Property Association: 1L Representative (2021 – 2022), Vice President (2022 – 2023)
- *IP Theory* Law Journal: Associate (2022 – 2023), Outstanding Associate (Fall 2022), Notes Editor (2023 – 2024)
- *IP Theory* Law Journal: Student Note Presumed for Publication (2023 – 2024)
    - Only JD '24 Associate Student Note Publication
- Oxford International Intellectual Property Moot: Participant (Fall 2023)
- USPTO 2023 National Patent Application Drafting Competition: Participant (Spring 2023)
- Women's Law Caucus: 1L Representative (2021 – 2022), Vice President (2022 – 2023)
- Admissions Fellow (2022 – 2023); Practice Group Advisor (2023 – 2024)
- Volunteers in Intellectual Property (VIPs): Coordinator (2021 – 2022)
- Chiefs in Intellectual Property (ChIPs): Member (2021 – Present)
- Purdue Law Scholar and Collen K Pauwels Fellowship (full-tuition scholarship)

Purdue University West Lafayette, IN
Bachelor of Science in Biomedical Engineering, GPA: 3.58/4.0 May 2017

- Society of Women Engineers; Weldon School of Biomedical Engineering: Student Ambassador; Student Engagement and Leadership: Teaching Assistant

WORK EXPERIENCE

Kirkland and Ellis, LLP Chicago, IL
Summer Associate May 2023 – July 2023

Indiana University Maurer School of Law Bloomington, IN
Intellectual Property Research Assistant for Professor Mark Janis May 2022 – Present

- Conduct research about intellectual property and space law including current regulations or practices.
- Organize and analyze different publications about intellectual property and space law.

Tilleke & Gibbins Hanoi, Vietnam
Summer Associate, Milton Stewart Fellow May 2022 – August 2022

- Analyzed and provided internal advice on client's case including drafting response to an office action while learning Vietnamese laws and regulations and providing input on American laws and regulations.
- Supported the Patent Team and Intellectual Property Enforcement Team with a potential pharmaceutical infringement occurring in Vietnam.

United States Patent and Trademark Office Alexandria, VA
Biomedical Patent Examiner August 2020 – April 2021

- Utilized biomedical background to examine technological breakthrough patent applications to determine whether a patent can be granted based on formal requirements.
- Provided direct service to inventors and patent practitioners about findings on patentability.

Accenture, LLP Boston, MA
Management Consultant June 2017 – August 2020

- Executed integration activities on behalf of client Director of PMO and Portfolio Commercialization for pharmaceutical company's $74 billion acquisition.
- Assisted five client C-suite executives (Executive VP, CSO, CIO, CDAO) to develop a framework for transforming the client's Enterprise Analytics Division to Agile.

VOLUNTEER & LEADERSHIP EXPERIENCE AND INTERESTS

Indiana Legal Services, *Name & Gender Pleadings Drafter, LGBTQ+ Project,* Bloomington, IN January 2023 – Present
Accenture, *Engagement Manager with Non-Profit, The Possible Project,* Boston, MA August 2019 – August 2020
Big Brother, Big Sister of Massachusetts Bay, *Mentor,* Boston, MA June 2019 – August 2020
INTERESTS: Gaining cross-cultural experiences by living and hiking in different countries

Academic Record of **Kukla, Karen J.**

J.D. in progress

Graduated from **Purdue University-West Lafayet** on 5/1/2017. Major: Bio/Biomedical.

Student ID: 2000935050

Indiana University
Maurer School of Law -- Bloomington

I Semester 2021-2022

Legal Res & Writing	Downey, R.	B542	2.0	A-
Legal Profession	Wallace, S.	B614	1.0	S
Contracts	Mattioli, M.	B501	4.0	A-
Torts	Lubin, A.	B531	4.0	A-
Civil Procedure	Geyh, C.	B533	4.0	A-

Dean's Honors Sem 51.80/14=3.70 `Cum 51.80/14.0=3.700 Hours passed 15.0

II Semester 2021-2022

Constitutional Law I	Sanders, S.	B513	4.0	A
Legal Research & Writing	Downey, R.	B543	2.0	A-
Property	Stake, J.	B521	4.0	A
The Legal Profession	Krishnan, J.	B614	3.0	A-
Criminal Law	Scott, R.	B511	3.0	A

Dean's Honors Sem 62.50/16=3.91 `Cum 114.30/30.0=3.810 Hours passed 31.0

Summer I 2021-2022

^Global Externship Prog	Gose, L.	B512	1.0	S

Sem 0.00/0=0.00 `Cum 114.30/30.0=3.810 Hours passed 32.0

I Semester 2022-2023

Patent Law	Janis, M.	B743	3.0	A
Evidence	Eaglin, J.	B723	3.0	A
IP Theory	Mattioli, M.	B674	1.0	S
Copyright	Leaffer, M.	B662	3.0	B+
Information Privacy Law I	Tomain, J.	B708	3.0	A-
*S Law & Medicine	Madeira, J.	L796	3.0	A

Dean's Honors Sem 57.00/15=3.80 `Cum 171.30/45.0=3.807 Hours passed 48.0

II Semester 2022-2023

IP Theory	Mattioli, M.	B674	1.0	S
Adv: Int'l Patent Draft	Hedges, N.	B734	1.0	S
^IP Clinic	Hedges, N.	B572	4.0	A
^Patent Trial Practice	Knebel, D.	B785	3.0	A-
#Wildlife Law	Fischman, R.	B550	3.0	A+*
Conflict of Laws	Buxbaum, H.	B745	2.0	A-

Dean's Honors Sem 46.50/12=3.88 `Cum 217.80/57.0=3.821 Hours passed 62.0

Hours Incomplete 0.0

Grade and credit points are assigned as follows: A+ or A = 4.0; A- = 3.7; B+ = 3.3; B = 3.0; B- = 2.7; C+ = 2.3; C = 2.0; C- = 1.7; D = 1.0; F = 0. A "C-" grade in our grading scheme reflects a failing grade and no credit. An "F" is reserved for instances of academic misconduct. At graduation, honors designation is as follows: Summa Cum Laude - top 1%; Magna Cum Laude - top 10%; Cum Laude - top 30%. For Dean Honors each semester (top 30% of class for that semester) and overall Honors determination, grades are not rounded to the nearest hundredths as they are on this record. Marked (*) grades are Highest Grade in class. Since this law school converts passing grades ("C" or higher) in courses approved from another college or department into a "P" (pass grade), for which no credit points are assigned, there may be a slight discrepancy between the G.P.A. on this law school record and the G.P.A. on the University transcript. Official transcripts may be obtained for a fee from the Indiana University Registrar at the request of the student .

123122

PURDUE UNIVERSITY

ACADEMIC TRANSCRIPT

Control : 462590

Record of: Karen Joanna Kukla

Current Name:

Date Issued: 18-JAN-2018
Level: Undergraduate

Issued To: Karen
karenjoannakukla@gmail.com

Course Level: Undergraduate

Current Program
BS in Biomedical Engineering
Program : Biomed Engr-BSE
College : School of Biomedical Engr
Campus : West Lafayette
Major : Biomedical Engineering
Minor : Women's Studies
Events: Indiana STGEC Completed

Degree Awarded BS in Biomedical Engineering 06-MAY-2017
Primary Degree
Program : Biomed Engr-BSE
College : School of Biomedical Engr
Campus : West Lafayette
Major : Biomedical Engineering
Minor : Women's Studies

SUBJ	NO.	COURSE TITLE	CRED GRD	PTS R
TRANSFER CREDIT ACCEPTED BY THE INSTITUTION:				
AP		Advance Placement - CEEB		
BIOL	1XXXX	Biology	3.00 TR	
ENGL	10600	First-Year Composition	4.00 TR	
ENGL	1XXXX	Literature & Composition	3.00 TR	
HIST	1XXXX	US History	3.00 TR	
POL	1XXXX	US Government/Politics	3.00 TR	
Ehrs: 16.00 GPA-Hrs: 0.00 QPts: 0.00 GPA: 0.00				
AP		Advance Placement - CEEB		
BIOL	1XXXX	Biology	3.00 TR	
ENGL	1XXXX	Literature & Composition	3.00 TR	
HIST	1XXXX	US History	3.00 TR	
POL	1XXXX	US Government/Politics	3.00 TR	
Ehrs: 12.00 GPA-Hrs: 0.00 QPts: 0.00 GPA: 0.00				
INSTITUTION CREDIT:				

********** CONTINUED ON NEXT COLUMN **********

SUBJ	NO.	COURSE TITLE	CRED GRD	PTS R
Institution Information continued:				
Term:		Fall 2013		
CHM	11500	General Chemistry	4.00 A	16.00
COM	11400	Fundament Of Speech	3.00 A	12.00
ENGR	10300	Intro Careers In Engr	1.00 A	4.00
ENGR	13100	Trans Ideas To Innovation I	2.00 A	8.00
ENGR	19400	Women Engr Seminar	1.00 A	4.00
MA	16100	Pl Anly Geo Calc I	5.00 C-	8.50
Term: Ehrs: 16.00 GPA-Hrs: 16.00 QPts: 52.50 GPA: 3.28				
Continued Good Standing				
Term:		Spring 2014		
CHM	11600	General Chemistry	4.00 B	12.00
ENGR	13200	Trans Ideas To Innovation II	2.00 A	8.00
MA	16200	Pl Anly Geo Calc II	5.00 B-	13.50
PHYS	17200	Modern Mechanics	4.00 B	12.00
Term: Ehrs: 15.00 GPA-Hrs: 15.00 QPts: 45.50 GPA: 3.03				
Continued Good Standing				
Term:		Fall 2014		
BIOL	23000	Biol Of Living Cell	3.00 A	12.00
BME	20100	Biomol:Strct,Funct,Apl	3.00 A	12.00
BME	20500	Biomolec & Cellular Syst Lab	1.00 A	4.00
BME	29500	Frontier Biomed Engr	1.00 A+	4.00
EDPS	30000	Student Leadership Dev	1.00 A	4.00 I
MA	26100	Multivariate Calculus	4.00 B-	10.80
ME	27000	Basic Mechanics I	3.00 B-	8.10
PHYS	24100	Electricity Optics	3.00 C	6.00
Term: Ehrs: 19.00 GPA-Hrs: 19.00 QPts: 60.90 GPA: 3.21				
Continued Good Standing				
Term:		Spring 2015		
BME	20400	Biomech Hard/Soft Tiss	3.00 B	9.00
BME	20600	Biomechanics & Biomaterial Lab	1.00 A	4.00
BME	25600	Physiological Modeling	3.00 A	12.00
EDPS	30000	Student Leadership Dev	2.00 A	8.00 I

********** CONTINUED ON PAGE 2 **********

RAISED SEAL NOT REQUIRED
This official transcript does not require a raised seal.

"I CERTIFY THAT THIS IS A CORRECT TRANSCRIPT OF THE RECORD OF THE ABOVE STUDENT."

UNIVERSITY REGISTRAR

PURDUE UNIVERSITY

ACADEMIC TRANSCRIPT

Control : 462590

Record of: Karen Joanna Kukla

Current Name:

Date Issued: 18-JAN-2018
Level: Undergraduate

SUBJ	NO.	COURSE TITLE	CRED	GRD	PTS	R
Institution Information continued:						
MA	26200	Lin Alg Diff Equats	4.00	C+	9.20	
ME	20000	Thermodynamics I	3.00	A	12.00	
MSE	23000	Struc & Prop Of Mat	3.00	A-	11.10	
Term: Ehrs: 19.00 GPA-Hrs: 19.00 QPts: 65.30 GPA: 3.44						
Continued Good Standing						
Term:		Summer 2015				
CS	15900	Prog Appl For Enginrs	3.00	A	12.00	
Term: Ehrs: 3.00 GPA-Hrs: 3.00 QPts: 12.00 GPA: 4.00						
Term:		Fall 2015				
BME	30100	Bioelectricity	3.00	A	12.00	
BME	30400	Transport Fundamentals	3.00	A	12.00	
BME	30500	Bioinstr Circ&Meas Prn	3.00	A+	12.00	
EDPS	30000	Student Leadership Dev	3.00	A	12.00	I
IE	33500	Oper Research-Optimiz	3.00	A+	12.00	
WGSS	28000	Women's Studies: An Introductn	3.00	A	12.00	
Term: Ehrs: 18.00 GPA-Hrs: 18.00 QPts: 72.00 GPA: 4.00						
Semester Honors						
Continued Good Standing						
Term:		Spring 2016				
BME	30600	Biotransport Lab	2.00	A-	7.40	
BME	39500	Prof Development & Design BME	2.00	A-	7.40	
BME	49500	Introduction To Bioimaging	3.00	A	12.00	
ECE	30100	Signals And Systems	3.00	B	9.00	
PHIL	27000	Biomed Ethics	3.00	A	12.00	
STAT	51100	Statistical Methods	3.00	A	12.00	
Term: Ehrs: 16.00 GPA-Hrs: 16.00 QPts: 59.80 GPA: 3.74						
Semester Honors						
Continued Good Standing						
Term:		Summer 2016				
BME	49500	Glbl Perspect On Med Tech Dsgn Purdue In Ireland	3.00	A	12.00	
********** CONTINUED ON NEXT COLUMN **********						

SUBJ	NO.	COURSE TITLE	CRED	GRD	PTS	R
Institution Information continued:						
Term: Ehrs: 3.00 GPA-Hrs: 3.00 QPts: 12.00 GPA: 4.00						
Term:		Fall 2016				
BME	48800	Preliminary Senior Project Dsn	1.00	A	4.00	
BME	48900	Senior Design Project Lab	2.00	A	8.00	
BME	49000	Professional Elements Design	1.00	A	4.00	
BME	59500	Intro To Clinical Medicine	3.00	A	12.00	
HK	44000	Human Diseases Disord	3.00	A+	12.00	
POL	22200	Wom Pol And Publ Pol	3.00	A	12.00	
Term: Ehrs: 13.00 GPA-Hrs: 13.00 QPts: 52.00 GPA: 4.00						
Dean's List & Semester Honors						
Continued Good Standing						
Term:		Spring 2017				
BIOL	56200	Neural Systems	3.00	A	12.00	
IE	34300	Engineering Economics	3.00	A	12.00	
SOC	35000	Soc Psych Of Marriage	3.00	A+	12.00	
WGSS	49900	Tudor Queens In Lit & Film	3.00	A+	12.00	
Term: Ehrs: 12.00 GPA-Hrs: 12.00 QPts: 48.00 GPA: 4.00						
Dean's List & Semester Honors						
Continued Good Standing						

********** TRANSCRIPT TOTALS **********

	Earned Hrs	GPA Hrs	Points	GPA
TOTAL INSTITUTION	134.00	134.00	480.00	3.58
TOTAL TRANSFER	28.00	0.00	0.00	0.00
OVERALL	162.00	134.00	480.00	3.58

********** END OF TRANSCRIPT **********

RAISED SEAL NOT REQUIRED
This official transcript does not require a raised seal.

"I CERTIFY THAT THIS IS A CORRECT TRANSCRIPT OF THE RECORD OF THE ABOVE STUDENT."

PURDUE REGISTRAR UNIVERSITY

UNIVERSITY REGISTRAR

FEDERAL LAW PROHIBITS THE RELEASE OF INFORMATION FROM THIS TRANSCRIPT WITHOUT THE WRITTEN CONSENT OF THE INDIVIDUAL WHOSE RECORD IT IS.
ALTERATION OR FORGERY OF THIS DOCUMENT MAY BE A CRIMINAL OFFENSE.
EXPLANATION KEY AND AUTHENTICITY CONFIRMATION INFORMATION ON REVERSE SIDE.

PURDUE UNIVERSITY
Office of the Registrar
610 Purdue Mall, West Lafayette, IN 47907-2040
Tel: (765) 494-6165 FAX: (765) 494-0570

KEY TO TRANSCRIPT OF ACADEMIC RECORDS

ACADEMIC CALENDAR
The Purdue University calendar is based on the semester system. A standard semester contains approximately 16 weeks of instruction, including final examinations. Summer sessions vary in number, length and format at the various campus locations.

ACCREDITATION
Purdue University is accredited by the North Central Association of Colleges and Secondary Schools, and by NCATE. Accreditation covers all courses and programs offered at all campuses of Purdue University. In addition, various schools within the University hold accreditation from their professional accrediting associations.

CAMPUS LOCATIONS
WEST LAFAYETTE (PWL) (Main Campus), West Lafayette, IN 47907, (765) 494-6165
IUPU-FORT WAYNE (PFW) (Joint Campus with Indiana University), Fort Wayne, IN 46805 (260) 481-6815
IUPU-INDIANAPOLIS (PIU) (Joint Campus with Indiana University), Indianapolis, IN 46202 (317) 274-1501
NORTHWEST-HAMMOND (PUC), Hammond, IN 46323, (219) 989-2210
NORTHWEST-WESTVILLE (PNC), Westville, IN 46391, (219) 785-5299
POLYTECHNIC STATEWIDE (TSW) (Various locations), adminstered through West Lafayette's Purdue Polytechnic Institute
PURDUE DIGITAL EDUCATION (PEC) (Various locations), administered through West Lafayette

COURSE NUMBERING SYSTEM
Prior to September 1953, courses designated by letter rather than number (e.g., English A) were non-credit. Courses numbered 1 through 99 were primarily for undergraduate credit. Courses numbered 100 through 199 enrolled advanced undergraduate and some graduate students. Courses numbered 200 through 299 were for graduate students. Between September 1953 and Summer 2008, the following numbering system was used: 001-049, Precollege and deficiency courses; 050-099, Nondegree courses (e.g., agriculture short courses); 100-299, Lower-division courses normally scheduled for freshmen and sophomores; 300-499, Upper-division courses normally scheduled for juniors and seniors; 500-599, Dual-level courses that may be scheduled by juniors, seniors and graduate students for graduate credit; 600-699, Graduate-level courses. In certain circumstances, an undergraduate student may take a 600-level course.
In Fall 2008, course numbers were converted to five digits, and professional-level course numbers (80000 to 89999) were added.

CREDIT TYPES
Regular Credit - All Purdue University credit is reported in terms of semester hours, whether earned during a 16-week semester or a summer session.

GRADING SYSTEMS
Effective Fall 2008, all grades were converted to the 4.0 scale as a result of the implementation of the Banner student system. Prior to Summer 1993, the University was on a 6.0 scale. For information about previous grading scales, see the Office of the Registrar Web site: www.purdue.edu/Registrar
The following shows the points assigned to each grade:

Grade	*Points*	*Definition*
A+/A	4	Highest Passing Grade
A-	3.7	
B+	3.3	
B	3	
B-	2.7	
C+	2.3	
C	2	
C-	1.7	
D+	1.3	
D	1	
D-	0.7	Lowest Passing Grade
E	0	Conditional Failure
F	0	Failure
IF	0	Unremoved Incomplete-Failing

The following grades are not included in the computation of scholastic indexes:
Regular Grade Option
I - Incomplete
O - Incomplete (obsolete eff. Summer 1977)
IX - Permanent Incomplete
R - Deferred Grade (PIU)
WF - Withdrew Failing

Pass/Not-Pass Option
P - Passing, equivalent to "C-" or higher (“C” or higher prior to Fall 2008)
N - Not Passing
PI - Incomplete
PO - Incomplete (obsolete effective Summer 1977)
IN - Unremoved Incomplete - Not Passing
WN - Withdrew Not Passing

Zero-Credit Courses (including thesis credits prior to Fall 2008)
S - Satisfactory
U - Unsatisfactory
SI - Incomplete
IU - Unremoved Incomplete - Unsatisfactory
WU - Withdrew Unsatisfactory

Other Grades
W - Withdrew
AU - Audit (effective Fall 2008)
DC - Departmental Credit
EX - Exempt
NC - Visitor, no credit (obsolete effective Fall 2008)
NG - Non-Graded (effective Fall 2008)
NS - Not Submitted (effective Fall 2008)
CR - Transfer Credit (prior to Fall 2008) Directed Credit (effective Fall 2008)
TR - Transfer Credit (effective Fall 2008)
TX - Transfer Credit* (effective Fall 2013)
V - Visitor (obsolete effective Summer 1963)

INSTITUTIONAL GPAs
TERM GPA - Based upon all courses in which the student was enrolled that session and for which grade points were earned. Is listed at the end of each semester.
LEVEL GPA - Overall grade point average that is listed at the end of each level, Undergraduate, Professional and Graduate.
EARNED HRS - A sum of all courses of which a D- or better was obtained. This includes P, S, CR and TR.

ABBREVIATIONS AND SYMBOLS (Effective Fall 2008)
EHRS - Credit hours earned.
GPA- Hrs - Quality hours earned (all hours carrying grade points).
QPts - Quality points earned.
GPA - Grade point average (computed by dividing quality points by GPA-Hrs).
E - Indicates that the course is excluded from earned hours and GPA.
I - Indicates that the course is included in earned hours and GPA; corresponds to a previously E (excluded) course.

SPECIAL CREDIT NOTATIONS
Students may be awarded credit at Purdue University by means other than regular enrollment in and completion of a course. Beginning January 1979, this "directed credit" is noted on the academic record as follows:
BY EXAM - Awarded on the basis of achievement in a Purdue departmental proficiency examination.
CEEB AP - Awarded on the basis of achievement in College Entrance Examination Board Advance Placement tests.
CLEP CR - Awarded on the basis of achievement in the College Level Examination Program.
CR ESTB - Awarded on the basis of CEEB Math Achievement Test score or Purdue Composite score.
DEPT CR - Awarded on the basis of substantially equivalent experience, successful completion of a more advanced course, etc.
Prior to January 1979, all BY EXAM (for new students), CEEB AP, CR ESTB and CLEP CR credit was combined into the single notation CR ESTB.

TRANSFER CREDIT
Course credits accepted in transfer from other institutions are listed under the appropriate headings. For undergraduate students, the course numbers and titles reflect Purdue University equivalents, with the exception of Indiana University courses taken at the jointly-administered Purdue-Indiana University campuses in Indianapolis and Fort Wayne. With the exception of Indiana University credits at the jointly-administered campuses, credits earned in the Polytechnic Statewide program and credits earned in certain study-abroad programs, no grades are transferred and transfer credit hours are not reflected in the cumulative totals. Effective Fall 2008, the following are now included in transfer credit: College Level Exam Placement (CLEP), College Entrance Examination Board Advance Placement (CEEB AP), and International Baccalaureate (IB). *Transfer credit with grades of D+, D or D- will be applied towards the State Transfer General Education Core for all Indiana public institutions. This will be annotated with a grade of TX and cannot be used to fulfill institutional degree requirements. For detalis, see <http://www.in.gov/che/files/STGEC_BW_Binder_Final_5.19.15.pdf>.

TO TEST FOR AUTHENTICITY: Translucent globe icons *MUST* be visible from both sides when held toward a light source. The face of this transcript is printed on gold SCRIP-SAFE® paper with the name of the institution appearing in small gold print over the face of the entire document.
PURDUE UNIVERSITY PURDUE UNIVERSITY PURDUE UNIVERSITY PURDUE
UNIVERSITY PURDUE UNIVERSITY PURDUE UNIVERSITY PURDUE UNIVERSITY
ADDITIONAL TESTS: The institutional name and the word VOID appear on alternate rows as a latent image. When this paper is touched by fresh liquid bleach, an authentic document
will stain brown. A black and white or color copy of this document is not an original and should not be accepted as an official institutional document. This document cannot be

March 2017

April 14, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

It a truly a pleasure to write in support of Karen Kukla's application for a clerkship in your chambers. I believe Karen's resume and transcript speak for themselves and will direct my remarks to my personal insight into her capability and character.

I first became acquainted with Karen when she was a student in my Law and Medicine Seminar in fall 2022. Her performance and contributions in class were excellent, and she quickly distinguished herself with on-point questions, quality discussion points, and consistent preparation. Her strong passion for learning was immediately evident and infectious. She brought a welcome intellectual energy into each class.

I was particularly impressed by Karen's seminar paper, "Direct to Consumer or Direct to All: Home DNA Tests and Lack of Privacy Regulations in the United States." In this paper, Karen analyzes the impact of direct to consumer (DTC) testing results and privacy violations for consumers and their relatives. She argues that there is a critical need for the U.S. government to regulate testing to constrain opportunities for privacy violations, and advocates for a strategy similar to the EU's General Data Protection Regulation to adequately protect consumers. Currenlty, only the state of California has moved in this direction. This seminar paper earned Karen an "A" in the class, and was one of the most excellent seminar papers that a student has submitted in this course. It was exceptionally well-written, well-organized, and original.

Karen has always had a strong desire to clerk for as long as I have known her. There is no question that she has the intellectual talents and work ethic to excel in that role; her resume is ample evidence of that. What sets her apart is her curiosity and passion for learning. She doesn't want to clerk to collect a credential; she wants to clerk to be challenged and to experience that unique one-on-one mentorship with her judge that is the hallmark of the clerkship experience. I feel certain that a clerkship is the obvious next step for a student with Karen's dedication, work ethic, enthusiasm, and talent.

For all of these reasons and so many more, Karen is an ideal candidate for a judicial clerkship. As a former clerk for Judge Richard Cudahy on the U.S. Court of Appeals for the Seventh Circuit, I feel sure that she would be a wonderful addition to your chambers, and recommend her without hesitation. Should you have any questions or need additional information, please do not hesitate to contact me.

Yours Sincerely,

Dr. Jody Lyneé Madeira
Professor of Law & Louis F. Neizer Faculty Fellow
Indiana University Maurer School of Law
jmadeira@indiana.edu | 812-856-1082

April 17, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I write to recommend Karen Kukla for a clerkship in your chambers. Karen is one of the top law students I have taught in my career. She is every bit the equal of my past students who have served as appellate and district court clerks in the federal courts. I recommend her with the greatest enthusiasm.

Karen's academic training and career experience have positioned her to be a significant contributor to the legal community. She is a Purdue engineer, a former patent examiner, and, currently, a leader in our intellectual property law program at Maurer. She will work as a summer associate with the IP group at Kirkland & Ellis in Chicago this summer.

Karen also had the opportunity to gain a practical perspective on international and comparative patent matters during the summer after her 1L year. She was selected as one of the law school's Stewart Fellows. In that connection, Karen worked as an intellectual property law associate at the Tilleke & Gibbins firm in Vietnam.
Karen has excelled academically in law school. Her GPA and class rank are exceptional. Her performance in my patent law class was stellar, consistent with her overall academic record.

Karen has worked as my research assistant on various intellectual property law projects during the school year. Her work has only confirmed my positive impressions of her. In addition to her obvious intellect, Karen has an outstanding work ethic. She is prompt and professional in submitting work, and the work is of excellent quality. She is also a pleasure to work with—a steady, understated, highly effective contributor to my research team.

It is such a great pleasure to have the opportunity to recommend this outstanding student for a clerkship. I would be glad to tell you more about Karen. Should you have any questions, please feel free to be in touch.

Yours,

Mark D. Janis
Robert A. Lucas Chair of Law
Director, Center for Intellectual Property Research
Indiana University Maurer School of Law

April 14, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

Please accept this letter as my strongest recommendation for Karen Kukla, a second-year law student at the Maurer School of Law, where I serve as Dean. Karen is a highly skilled and accomplished law student who has garnered the respect of her fellow students. She has also impressed many of the faculty with whom she has taken classes.

As Dean, I interact with nearly all our students. Karen is among the best of the excellent students that flow through our halls. She has been very engaged in the life of the school, serving as an Admissions Fellow, as a Stewart Fellow, and as a member of the Women's Law Caucus, raising funds for a local organization that helps women and children in crisis moments. She has been highly active in extracurricular activities related to Intellectual Property, including with Volunteers for Intellectual Property and as a member of our IP-focused law journal IP Theory. All the while, she has maintained excellent grades while in law school and is currently ranked in the top 3% of her class. Her 1L Civil Procedure Professor, Charlie Geyh, provides a bit of insight into her performance as a student. He has let me know that Karen's "performance…reflected a high level of facility with course concepts and produced one of the best exams in the class."

Karen possesses excellent skills that will be useful to your chambers. Her writing skills are terrific. To illustrate, her 1L Legal Research & Writing professor has indicated that "Karen wrote one of the best briefs in her class." A partner with whom she worked at Tilleke & Gibbons, Tom Treutler, has informed me that she is one of the top interns they have ever had and elaborated by saying: "Karen has spent the time over many years to carefully build up a comprehensive skill set for the intellectual property law field and she gives 100% and takes initiative to draw upon and share all of her skills, including technical, communication, professional and legal skills, in a team environment to help her team bring out the best results for any project." The director of our IP Clinic shares this view, stating: "Prior to and as a student associate in the IP Clinic and a member of the International Patent Drafting Competition Team, Karen Kukla has been inquisitive, engaged, insightful, knowledgeable, and wise, yet humble."

Karen has long been developing the skills and professionalism that have prepared her well to be an excellent and valuable clerk and team member. Before coming to law school, she had already worked as a patent examiner in the USPTO. While at Maurer, she has honed her expertise and abilities through moot court competitions, working as a research assistant to the Director of our Center on Intellectual Property Research, and through a wide variety of courses, including, I believe, every course we offer related to IP.

We have truly excellent students at the Maurer School of Law. Students like Karen are special, though. Karen is the type of person that rises to the top and is a vital player in every environment. Perhaps the experience of Donald Knebel, who taught Karen in his Patent Trial Practice course, illustrates her role at Maurer best: "In my Patent Trial Practice class, Ms. Kukla quickly became, in the admiring words of one member of her team, the 'designated everything'."

I strongly recommend that you hire Karen Kukla. I am confident that she will become an indispensable member of your team should you do so.

Yours truly,

Christiana Ochoa
Dean and Herman B Wells Endowed Professor
Indiana University Maurer School of Law

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Karen J. Kukla

Patent Bar Eligible | (765) 476-3383 | kakukla@iu.edu

Writing Sample

Enclosed please find a copy of a Legal Brief. I created this document in my second semester of my Legal Research and Writing class at Indiana University Maurer School of Law. This brief seeks to persuade the court to deny a motion to quash. The case involves an intoxicated person who attempted a carriage ride. The motion argues the defendant violated Louisiana's Operating a Vehicle While Intoxicated, and therefore a motion should be denied. The document was excerpted for length considerations. Although benefitting from my legal writing professor's general feedback, the writing sample represents my original work.

Brief in Opposition to Defendant's Motion to Quash

INTRODUCTION

This case involves an intoxicated person who placed the public in danger. Although the Defendant, Charles Gabriel Emery, attempted to gift a carriage ride, he instead threatened public safety by climbing into a massive, two-horse drawn carriage and holding its reins while intoxicated.

The purpose of Louisiana's Operating a Vehicle While Intoxicated (OWI) statute is to protect people from injury caused by intoxicated drivers operating any means of conveyance. Because a massive, two-horse-drawn carriage barreling down a street while under the control of an intoxicated person threatens public safety, the OWI statute encompasses regulating a carriage.

The State of Louisiana, led by the District Attorney for the Parish of Acadia, Daniel Gaines, charges Emery with an OWI offense. It is undisputed that Emery was intoxicated. Emery argues that it is inconceivable, as a matter of law, that the facts alleged in the indictment could support a conviction.

However, the alleged facts demonstrate Emery is not entitled to the grant of a motion to quash under article 532(1). As a matter of law, the alleged facts could support a conviction if found credible by a jury. Thus, the Defendant's Motion to Quash should be denied.

STATEMENT OF FACTS

On February 13, 2022, around 1713 hours, while performing his duty of protecting the public from harm, Morales observed a horse-drawn carriage stationed on the street by The Mighty Crab Restaurant. (*Id.*) As he investigated, Morales distinguished a pungent odor of alcohol arising from the carriage. (*Id.*) The driver, Emery, slouched in the carriage's driver seat with his head "slumped down into his chest" while "holding the reins in his hands, which were in his lap." (*Id.*)

Morales photographed the scene, (*id.*), and it is evident that the two-horse-drawn carriage was visibly massive, clearly larger than a car, (*id.* at 3.). With its four huge wheels and two hefty horses, one

could reasonably infer the horse-drawn carriage was heavy. Furthermore, the photograph shows the reins connected to each horse and the carriage, indicating the reins are the steering, braking, and controlling mechanism for the carriage's movement.

After photographing, Morales called out to Emery, who appeared to be sleeping. (*Id.* at 1.) However, Emery did not wake up. (*Id.*) Morales "rapped [his] hand on the side of the carriage" while calling out, each time louder. (*Id.*) After Emery stirred, Morales asked for the sixty-year-old man's driver license. (*Id.*) Emery responded as "agitated and hostile" and screamed "slurred" words. (*Id.* at 1–2.) Although the horses shifted, the wagon remained stationary. (*Id.* at 2.) Eventually, Emery threw his license and spat at the peace officer. (*Id.*)

Morales advised Emery of his rights and requested Emery to submit to field sobriety tests. (*Id.*) After more expletives, Emery performed the tests, "eventually let[ting] go of the reins." (*Id.*) Four tests were positive for impairment, including a PBT with 0.20% BAC. (*Id.*)

Meanwhile, the carriage's owner, Celina Hebert, approached the scene and explained she brought the carriage around 1600 hours for Emery to borrow. (*Id.*) Hebert recalled Emery emerged from the restaurant "walk[ing] unsteadily and appear[ing] drunk" to the point where Hebert had to "assist [ ] him into the driver's seat." (*Id.*) Emery promised not to drive until he sobered up, but Emery "took the reins in his hands" while climbing into the driver's seat. (*Id.*) After leaving Emery for an hour, Hebert returned out of concern for the horses' safety "with a visibly intoxicated Mr. Emery." (*Id.*)

Emery explained he attended his sister's wedding reception at The Mighty Crab but left when Hebert arrived. (*Id.*) Emery intended to drive the wedding couple to an inn after the wedding reception. (*Id.*) After the exchange, Officer Morales placed Emery under arrest for OWI and performed a blood test at the Crowley station. (*Id.*) The blood test resulted in a 0.18% BAC. (*Id.*)

Because Emery held the reins of a massive two-horse carriage while intoxicated, the State asks this Court to deny the Defendant's Motion to Quash.

ARGUMENT

I. **The Defendant's Motion to Quash should be denied because the alleged facts demonstrate that Emery, while intoxicated, operated an "other means of conveyance" by holding the reins of a horse-drawn carriage and therefore committed Louisiana's offense of OWI.**

In Louisiana, "[t]he crime of operating a vehicle while intoxicated is operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when . . . (a) [t]he operator is under the influence of alcoholic beverages; [or] (b) [t]he operator's blood alcohol concentration is 0.08 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood . . . ." La. Stat. Ann. § 14:98 (Supp. 2021). Louisiana's OWI statute aims to protect people from injury caused by any means of conveyance operated by intoxicated drivers. *State v. Vogel*, 261 So. 3d 801, 808 (La. Ct. App. 2018).

The Louisiana Supreme Court held that a person violates Louisiana's OWI offense when that person: (1) operates any means of conveyance (2) while under the influence of alcoholic beverages or with a blood alcohol concentration of .08% or more. *State v. Fontenot*, 408 So. 2d 919, 921 (La. 1981). Here, the second element is undisputed because a test confirmed Emery acted with a BAC above the legal limit, and Emery does not raise the issue in his motion to quash. By filing a motion to quash, Emery disputes the two requirements of the first element: (1) operating (2) any means of conveyance including "motor vehicle . . . or other means of conveyance." Any means of conveyance should be narrowed to "other means of conveyance" because a horse-drawn carriage does not qualify as the other listed conveyances (i.e., the carriage is powered by a horse and not a motor). Thus, a horse-drawn carriage is an "other means of conveyance" and holding reins constitute "operating."

Pursuant to Article 532(1), a motion to quash should be granted only if the movant shows the "indictment fails to charge an offense which is punishable under a valid statute." La. Code Crim. Proc.

Ann. art. 532(1) (2017). When alleged facts, if found credible by the trier of fact, can conceivably support a conviction, the court must deny a motion to quash. *State v. Legendre*, 362 So. 2d 570, 571 (La. 1978). As a matter of law, holding the reins of the horse-drawn carriage while intoxicated are facts which, if a jury found them credible, could support a conviction under Louisiana's OWI statute.

This Court should deny the Motion to Quash because the facts alleged in the Information could conceivably support the OWI charge's essential elements. Furthermore, the OWI offense's purpose encompasses regulating a carriage because a huge carriage operated by an intoxicated person may result in severe injury and death to innocent bystanders, including children, mothers, and the elderly. Thus, this Court should deny Emery's motion because as a matter of law, he violated the OWI statute.

A. The alleged facts are sufficient to prove that a horse-drawn carriage is an "other means of conveyance" because a carriage is an inanimate object that is "driven" by a person and presents a clear danger of injury to the public.

Under Louisiana's OWI charge, an "other means of conveyance" is an inanimate object that is "driven" by a person and threatens public safety. *State v. Carr*, 761 So. 2d 1271, 1275–1276 (La. 2000).

A "means of conveyance" includes an inanimate object of which the operation is dependent on its driver. In *State v. Williams*, the court distinguished inanimate from animate by defining inanimate objects as objects "of which the operation and control [are] dependent on the actions of the driver." 449 So. 2d 744,747 (La. Ct. App. 1984). Examples of inanimate objects include "motor vehicles," "aircraft," and "vessel." *Id.* Similarly, in *State v. Guidry,* the court defined a bicycle as inanimate because "the actions or inactions of its operator or driver" completely control the bicycle, and therefore, a "means of conveyance."467 So. 2d 156, 157–158 (La. Ct. Ap. 1985). Likewise, the court in *State v. Vogel* held a lawnmower as inanimate. 261 So. 3d 801, 811 (La. Ct. App. 2018).

Conversely, animate objects are not dependent on the actions of the driver, and cannot, therefore, be a "means of conveyance." The court in *Williams* held a horse is not an "other means of conveyance" because a horse is an animate object of which the actions are "not always controlled" and "may not always be predicted with certainty." 449 So. 2d at 747 (quoting *Plauche v. Consolidated Companies*, 105 So. 2d 269 (La. 1958)). *See also State v. Blowers*, 717 P.2d 1321, 1323 (Utah 1986) (holding a wagon and team are distinguishable as "vehicles" while horses alone are not).

A "means of conveyance" must be "driven" or "operated." In *Williams*, the court found a horse is "ridden . . . it is not operated or driven." *Id.* at 747. The court in *Williams* relied on the legislature's intent of OWI implied from the OWI's statutory heading. Although not part of the law, the heading suggests the legislature intended to apply OWI to driving conveyances that affect public safety. (*See Williams,* 449 So. 2d at 748 (section falls under the heading "Driving Offenses" and sub-part "Offenses Affecting Public Safety").

Suppose the conveyances, when operated by an intoxicated person, threatens public safety by presenting a risk of serious injury to the public. In that case, the public is adequately informed that operating the conveyance while intoxicated is a crime under OWI. The plain words and legislative history imply the purpose of the statute is to protect the public from harm caused by conveyances driven by drivers who are under the influence of alcohol. *Vogel*, 261 So. 3d at 808.

Consequently, the Louisiana Supreme Court in *Carr*, although the circuit courts in *Williams* and *Guidry* held other means of conveyances were limited to motorized vehicles, decided not to adopt motorization as a requirement when the means threatened public safety. *Carr,* 761 So. 2d at 1274–76. The court in *Carr* narrowly held the statute is ambiguous as to whether bicycles were intended to be included as other means of conveyance. *Id.* at 1278. The statute failed to "provide adequate notice" to the public that riding a bicycle while intoxicated would be a criminal offense. *Id.* at 1274–75. Thus, the

court in *Carr* applied the rule of lenity and interpreted the statute in favor of the defendant, holding a bike is not other means to satisfy the principles of due process. *Vogel*, 261 So. 3d at 811.

Using the reasoning in *Carr,* the court in *Vogel* held that a lawnmower's distinguishing feature is not the motor, but the mower is "self-propelled as opposed to human-powered." *Id.* at 812. Furthermore, the court in *Vogel* held driving a lawnmower while intoxicated is a crime because the legislature "intended to protect the public from the type of actions alleged." *Id.* Similarly, the police officer in *Harris v. City of Shreveport*, stopped the appellant in a wheelchair because of the inferred danger of the appellant violating traffic regulations, impeding traffic, and operating recklessly. No. 00-31276, 2003 U.S. App. LEXIS 28023, at *2–3 (5th Cir., May 19, 2003) (per curiam unpublished table decision). Although the appellant argued that a wheelchair as an other means was too ambiguous to qualify, the court in *Harris* found the argument not persuasive. *Id.* at *3.

Because a horse-drawn carriage is an inanimate object that is "driven" by a person and presents a clear danger of injury to the public, a horse-drawn carriage is an "other means of conveyance."

A horse-drawn carriage is an inanimate object because its operation depends on the carriage's driver. Like the bicycle in *Guidry* and the lawnmower in *Vogel*, the horse-drawn carriage is entirely controlled by the actions or inactions of the driver. For example, a horse-drawn carriage will not move or steer itself without the driver's action, such as flicking the reins. Unlike the animate horse in *Williams* or *Blowers*, a horse-drawn carriage can be predicted with certainty. For example, when the arresting officer banged on the carriage multiple times and Emery slept, the carriage did not move (Info. Ex. A, at 1–2.) When Emery became "agitated and hostile" and the horses shifted, the carriage remained stationary. (*Id.*)

An operator cannot ride a horse-drawn carriage but must "drive" or operate the carriage. Unlike the horse in *Williams*, a horse-drawn carriage must be driven. Instead of sitting on top of a horse like the defendant in *Williams*, Emery sat in the driver's seat of the carriage. (*Id.* at 3.)

Furthermore, the carriage's owner noted that although Emery promised not to drive until he sobered up, Emery "took the reins in his hands" while climbing into the driver's seat. (*Id.* at 2.) This indicates reins are required to operate or drive the carriage.

Finally, an intoxicated person's operation of a horse-drawn carriage threatens public safety, therefore providing adequate notice to the public that operating a carriage while intoxicated is a crime under OWI. The carriage is significantly larger than the wheelchair in *Harris* and the lawnmower in *Vogel*. The carriage is clearly larger than a car. Consequently, the massive size and heavy weight of the carriage and horses intuitively threaten an innocent bystander. Furthermore, like the wheelchair in *Harris*, a carriage can impede traffic and be operated recklessly. The owner of the horse-drawn carriage confirmed that Emery would not drive the carriage until he sobered up, demonstrating a safety concern. Furthermore, after leaving Emery for an hour, Hebert returned out of concern for the horses' safety "with a visibly intoxicated Mr. Emery." (*Id.* at 2.)

Conversely, the bike in *Carr,* which is smaller in size and weight than a horse-drawn carriage, does not present a risk of serious injury. Unlike the bike in *Carr,* the inherent danger of driving a two-horse carriage while intoxicated is evident and places the public on adequate notice. Consequently, the rule of lenity does not apply.

Overall, a horse-drawn carriage is a "means of conveyance" within the meaning of section 14:98 because a carriage is an inanimate object that is "driven" by a person and presents a danger of injury to the public that the legislature unambiguously intended to prevent.

B. The alleged facts are sufficient to prove that Emery "operated" the horse-drawn carriage because Emery physically handled the reins and thereby controlled the mechanism of the conveyance's movement.

Under Louisiana's OWI statute, a person "operates" a conveyance if the person manipulates or physically handles some controls of the conveyance that relate to the conveyance's movement,

regardless of whether the manipulation had any actual effect on the conveyance. *State v. Lewis*, 236 So. 3d 1197, 1198 (La. 2017) (per curiam) (citing *State v. Rossi*, 734 So. 2d 102, 102–03 (La. Ct. App. 1999)).

By maintaining control over the conveyance's steering, braking, or movement mechanisms for more than a moment, a person manipulates or physically handles some controls of the conveyance. The court in *State v. Winstead* held that the intoxicated defendant, who slept behind the steering wheel in the driver's seat, manipulated the vehicle's controls by maintaining his foot on the brakes. 193 So. 3d 565, 572 (La. Ct. App. 2016). Because of the defendant's control, the vehicle was prevented from moving from the side of the road. *Id.*

Similarly in *State v. Traylor*, the court held the defendant sufficiently handled the vehicle's controls by starting the engine and manipulating the brakes for longer than a few seconds. 246 So. 3d 665, 669 (La. Ct. App. 2018). Conversely, in *City of Bastrop v. Paxton*, the court held that a "mere second or two" of potentially activating the brake lights does not indicate the defendant had sufficient control over the vehicle. 457 So. 2d 168, 170 (La. Ct. App. 1984).

Although manipulation of the conveyance's controls may lack any effect on the engine or the vehicle failed to move, a person still "operates" the conveyance through the manipulation. In *State v. Jones*, the court found that Louisiana's jurisprudence "recognizes that the term 'operating' is broader than the term 'driving.'" 714 So. 2d 819, 820 (La. Ct. App. 1998). Consequently, the court in *Jones* held the defendant operated his vehicle by revering his engine and attempting to change gears during his altercation with a police officer, even though his vehicle did not move. *Id.* at 820–822. Similarly, although a vehicle moves, "the mere presence" of the defendant in the driver seat is insufficient to show the defendant "operated" the vehicle. *State v. Brister*, 514 So. 2d 205, 207–208 (La. Ct. App. 1987). The court in *Brister* found the defendant did not "release[ ] the brake, caus[e] the car to roll forward, or [steer] the car" while the car moved down an incline. *Id.* Although the car moved, the court held the lack of handling demonstrated the defendant failed to "operate" the vehicle. *Id.*

However, a person cannot operate a conveyance when the vehicle is incapable of being placed in motion. In *Lewis,* the court found the defendant did not operate the vehicle by turning the key into the ignition because the car was incapable of starting. 236 So. 3d at 1197–99. Specifically, while the defendant turned the key, the car in Lewis stalled and would not start with jumper cables. *Id.* at 1197. Consequently, the court in *Lewis* found even if a person attempts to control a vehicle, that person cannot operate a vehicle incapable of motion. *Id.* at 1198. A vehicle is incapable of being placed into motion if the vehicle includes "mechanical problems, a lack of gas, or other problems that cannot be easily overcome." *Id.*

Because Emery physically handled the reins or controlled the carriage's mechanism for movement over time, Emery sufficiently "operated" the carriage.

By holding the reins, Emery maintained consistent control over the horse-drawn carriage's steering, braking, and movement mechanisms for more than a moment, therefore physically handling the controls of the conveyance. The reins of the horse-drawn carriage, through its connection with the halters and harnesses, control the carriage's movement mechanism, the horses. Like the defendant in *Winstead*, Emery was intoxicated and slept in the driver's seat behind the steering mechanism of the conveyance. Furthermore, like the defendant in *Winstead*, Emery manipulated control of the carriage's breaking mechanism by holding the reins in his lap, impeding the carriage from moving from the side of the road.

Similar to the defendant in *Traylor*, Emery sufficiently handled the vehicle's controls for longer than a couple of seconds. An intoxicated Emery took the reins in his hands while climbing into the driver's seat, and an hour later, Officer Morales found Emery with the reins in his hands. Furthermore, Morales noted Emery "eventually" released the reins, indicating Emery maintained control for more than a moment. (Info. Ex. A, at 2.) Emery's lengthy control contradicts the defendant's control in *Bastrop*, who manipulated the brakes for a mere few seconds.

Although Emery's manipulation over the reins did not affect the horses and the carriage did not move, Emery still operated the carriage. Unlike the defendant in *Brister,* who did not handle the moving vehicle's controls, Emery did more than just sit in the driver's seat because he physically handled the braking and steering mechanisms of the carriage by holding the reins in his lap. Like the defendant in *Jones,* who manipulated the vehicle's controls during an altercation with an officer and the vehicle failed to move, Emery held the reins while screaming at and throwing his license at Morales, and the carriage did not move.

Finally, Emery operated the carriage because the horse-drawn carriage was capable of being in motion. Unlike the vehicle in *Lewis* in which the engine stalled and the vehicle could not move, the horse-drawn carriage could easily move because the "engine" of the carriage, the horses, shifted their feet. Furthermore, unlike the defendant in *Lewis,* who could not move the vehicle even though he attempted to start by placing keys into the ignition, Emery's manipulation of the reins could encourage or stop the horses and carriage from moving.

Overall, Emery sufficiently "operated" the carriage by physically handling the reins or controlling the carriage's mechanism for movement over a length of time.

CONCLUSION

The State of Louisiana requests that the Court deny the Defendant's Motion to Quash because from the face of the pleadings and as a matter of law, the defendant, Charles Gabriel Emery, was operating a vehicle or other conveyance while under the influence of alcohol or with a BAC of .08% or more.

Applicant Details

First Name	**Emily**
Last Name	**Landry**
Citizenship Status	**U. S. Citizen**
Email Address	**emily.landry@hotmail.com**
Address	**Address** **Street** **75 W. Sandalbranch Circle** **City** **The Woodlands** **State/Territory** **Texas** **Zip** **77382**
Contact Phone Number	**8323261674**

Applicant Education

BA/BS From	**Other**
JD/LLB From	**University of Houston Law Center** **http://www.nalplawschoolsonline.org/ndlsdir_search_results.asp?lscd=74402&yr=2009**
Date of JD/LLB	**May 15, 2024**
Class Rank	**50%**
Law Review/ Journal	**Yes**
Journal(s)	**Houston Journal of International Law**
Moot Court Experience	**Yes**
Moot Court Name(s)	**Moot Court Team**

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	**No**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Professional Organization

Organizations	**Just the Beginning Organization**

Recommenders

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

Emily Landry
75 W. Sandalbranch Circle
The Woodlands, Texas 77382

June 19, 2023

The Honorable Jamar K. Walker
U.S. District Court for the Eastern District of Virginia
Walter E. Hoffman U.S. Courthouse
600 Granby Street
Norfolk, VA 23510

Dear Judge Walker:

I am a third-year law student at the University of Houston Law Center, and I am writing to apply for the 2024-2025 clerkship with your chambers. I was encouraged to apply for this position because you have a background in public service as an Assistant U.S. Attorney—a career path I am eager to pursue after graduation.

As a non-traditional law student, I have financed my legal education by working at small and mid-size law firms in civil litigation practice groups. Over several years of working as a paralegal and then law clerk, I have gained experience in performing legal research and drafting memoranda, motions, and discovery requests/responses. I further developed these skills through my internship with the Harris County Attorney's Office, where I primarily analyzed state and local statutes to determine the permissibility of the county hospital division's proposed programs. Additionally, this summer I will be completing a judicial externship with the Honorable Jeff Brown, U.S. District Judge for the Southern District of Texas, Galveston Division, where I will have the opportunity to further refine my legal research and writing competencies.

In law school, I have been intentional in maximizing opportunities to develop my legal writing skills. Prior to serving as a Publications Editor of the *Houston Journal of International Law*, I was awarded the Best Comment on U.S.-Mexico Relations for my candidate comment on how illegal arms trafficking perpetuates the drug war. I was also a brief writer on the moot court team.

My long-term goal is to work as an Assistant U.S. Attorney representing the U.S. government. Because you also worked as an Assistant U.S. Attorney, I believe this clerkship would provide an invaluable foundation for my desired career path, as well as an abundance of learning opportunities.

Attached are my resume, unofficial transcript, and writing sample for your review. A letter of recommendation from three of my law school professors, Kate Brem, Lonny Hoffman, and Kenneth Swift, will be uploaded to OSCAR.

Respectfully,

Emily Landry

Enclosures

Emily L. Landry

The Woodlands, Texas | (832) 326-1674 | ellandry@cougarnet.uh.edu

EDUCATION

University of Houston Law Center, Houston, Texas — May 2024
Juris Doctor Candidate, GPA: 3.463, Top 40%
Honors: *Houston Journal of International Law,* 2022 Award for Best Comment on U.S.-Mexico Relations, Dean's List Fall 2020 and Spring 2023
Activities: Moot Court, Christian Legal Society, Houston Young Lawyers Association; Hispanic Bar Association of Houston; Mexican-American Bar Association; Latinx Law Students Association

University of Texas at San Antonio (UTSA), San Antonio, Texas — May 2019
Master of Arts in Teaching English to Speakers of Other Languages (Honors), GPA: 4.00

The University of Manchester, Manchester, United Kingdom — July 2010
Bachelor of Science in Psychology, GPA: 3.44

EXPERIENCE

Thomas M. Fountain & Associates, PLLC, Houston, Texas — January 2023 - Present
Law Clerk

- Review insurance claims files to develop defense strategy for clients
- Attend examinations under oath
- Draft pleadings and motions for filing in both state and federal courts
- Prepare discovery requests and responses
- Analyze legal research to incorporate into interoffice memoranda
- Review and respond to Deceptive Trade Practices Act demand letters

Harris County Attorney's Office, Houston, Texas — January 2022 – April 2022
Legal Intern, Hospital Division

- Regularly analyzed Stark law, Anti-Kickback Statute, and Fraud and Abuse laws
- Reviewed hospital district policies and ensured proper citation of legal authorities
- Drafted memorandums on issues relating to hospital district operations and proposed programs
- Researched and analyzed Texas Attorney General opinions

Stibbs & Co. P.C., Houston, Texas — May 2019 – January 2023
Paralegal/Law Clerk (Transactional & Litigation)

- Prepared and filed formation documents of corporate entities in various jurisdictions
- Reviewed due diligence items and prepared disclosure schedules for acquisitions
- Drafted purchase agreements, bills of sales, and warranty deeds
- Conducted legal research using Westlaw and Lexis
- Drafted motions, pleadings, and memorandums for attorney review
- Conducted document review for responsiveness to discovery requests

Haynes Boone, LLP, San Antonio, Texas — October 2017- January 2019
Administrative Coordinator

- Assisted office manager with planning and organizing firm events
- Managed conference room reservations and firm calendar
- Prepared and submitted expense reports

SKILLS AND INTERESTS

- Advanced fluency in Spanish
- Active mentor in Big Brothers Big Sisters organization

Unofficial Transcript

Name: **Emily L Landry**
Student ID: **2026829**

Print Date: 05/19/2023

SSN: XXX-XX-7858
Birthdate: XXXX-06-26

Request Reason: Web Transcript Request

Beginning of Law Record

FA 2020

Program: **Law Professional**
Plan: **Law, JD Major**

Course		Description	Attempted	Earned	Grade	Points
LAW	5314	Lawyering Skills & Strategy I	3.000	3.000	B+	9.990
Instructor:		Derrick Earl Gabriel Lauren J Simpson				
LAW	5406	Civil Procedure	4.000	4.000	A	16.000
Instructor:		Derrick Earl Gabriel Lonny Hoffman				
LAW	5408	Property	4.000	4.000	A	16.000
Instructor:		Derrick Earl Gabriel Kellen B Zale				

			Attempted	Earned	GPA Units	Points
Term GPA	3.817	Term Totals	11.000	11.000	11.000	41.990

Term Honor: Dean's List

SP 2021

Program: **Law Professional**
Plan: **Law, JD Major**

Course		Description	Attempted	Earned	Grade	Points
LAW	5409	Contracts	4.000	4.000	B+	13.320
Instructor:		Derrick Earl Gabriel Anthony Ray Chase				
LAW	5418	Torts	4.000	4.000	B-	10.680
Instructor:		Derrick Earl Gabriel Valerie Gutmann Koch				
LAW	6207	Lawyering Skills & Strategy II	2.000	2.000	B+	6.660
Instructor:		Derrick Earl Gabriel Lauren J Simpson				

			Attempted	Earned	GPA Units	Points
Term GPA	3.066	Term Totals	10.000	10.000	10.000	30.660

SU 2021

Program: **Law Professional**
Plan: **Law, JD Major**

Course		Description	Attempted	Earned	Grade	Points
LAW	5303	Criminal Law	3.000	3.000	B+	9.990
Instructor:		Derrick Earl Gabriel Zachary Daniel Kaufman				
LAW	5378	Statutory Interpretation & Rea	3.000	3.000	B+	9.990
Instructor:		Derrick Earl Gabriel Darren Bush				

			Attempted	Earned	GPA Units	Points
Term GPA	3.330	Term Totals	6.000	6.000	6.000	19.980

Unofficial Transcript

Name: **Emily L Landry**
Student ID: **2026829**

FA 2021

Program: **Law Professional**
Plan: **Law, JD Major**

Course		Description	Attempted	Earned	Grade	Points
LAW	5339	Trusts and Wills	3.000	3.000	C+	6.990
Instructor:		Derrick Earl Gabriel Gus Gerard Tamborello				
LAW	5488	Constitutional Law	4.000	4.000	A-	14.680
Instructor:		Derrick Earl Gabriel Renee N Knake				

			Attempted	Earned	GPA Units	Points
Term GPA	3.096	Term Totals	7.000	7.000	7.000	21.670

SP 2022

Program: **Law Professional**
Plan: **Law, JD Major**

Course		Description	Attempted	Earned	Grade	Points
LAW	5333	Health Transactions	3.000	3.000	B+	9.990
Instructor:		Derrick Earl Gabriel Robert Francis McStay Jessica Mantel Warren Christopher Shea				
LAW	5357	Evidence	3.000	3.000	A	12.000
Instructor:		Derrick Earl Gabriel Katherine B Brem				

			Attempted	Earned	GPA Units	Points
Term GPA	3.665	Term Totals	6.000	6.000	6.000	21.990

SU 2022

Program: **Law Professional**
Plan: **Law, JD Major**

Course		Description	Attempted	Earned	Grade	Points
LAW	5197	Selected Topics	1.000	1.000	S	0.000
Course Topic:		Advocacy Competition TWO				
Instructor:		Jim E Lawrence Derrick Earl Gabriel				
LAW	5297	Selected Topics	2.000	2.000	B+	6.660
Course Topic:		Current Crisis Middle East				
Instructor:		Derrick Earl Gabriel Samir Jabra Foteh				
LAW	6321	Professional Responsibility	3.000	3.000	A	12.000
Instructor:		Derrick Earl Gabriel Meredith J Duncan				

			Attempted	Earned	GPA Units	Points
Term GPA	3.732	Term Totals	6.000	6.000	5.000	18.660

FA 2022

Program: **Law Professional**
Plan: **Law, JD Major**

Unofficial Transcript

Name: **Emily L Landry**
Student ID: **2026829**

Course		Description		Attempted	Earned	Grade	Points
LAW	5421	Business Organizations		4.000	4.000	B+	13.320
Instructor:		Douglas Keith Moll Derrick Earl Gabriel					
LAW	6365	U.S. Health System: An Intro		3.000	3.000	B+	9.990
Instructor:		Derrick Earl Gabriel Jessica Mantel					
				Attempted	Earned	GPA Units	Points
Term GPA		3.330	Term Totals	7.000	7.000	7.000	23.310

SP 2023

Program: **Law Professional**
Plan: **Law, JD Major**

Course		Description		Attempted	Earned	Grade	Points
LAW	5343	Employment Law		3.000	3.000	A	12.000
Instructor:		Derrick Earl Gabriel Shahriar Daram Kenneth Richard Swift					
LAW	5392	Int Business Trans		3.000	3.000	B+	9.990
Instructor:		Derrick Earl Gabriel Samir Jabra Foteh Shahriar Daram					
LAW	7317	WRC: Federal Pretrial Drafting		3.000	3.000	A-	11.010
Instructor:		Derrick Earl Gabriel Katherine B Brem Shahriar Daram					
				Attempted	Earned	GPA Units	Points
Term GPA		3.667	Term Totals	9.000	9.000	9.000	33.000

SU 2023

Program: **Law Professional**
Plan: **Law, JD Major**

Course		Description		Attempted	Earned	Grade	Points
LAW	5129	Advocacy Competition THREE		1.000	0.000	In Progress	0.000
Instructor:		Jim E Lawrence Derrick Earl Gabriel					
LAW	5130	Advocacy Competition TWO		1.000	0.000	In Progress	0.000
Instructor:		Jim E Lawrence Derrick Earl Gabriel					
LAW	5200	Depositions		2.000	0.000	In Progress	0.000
Instructor:		Derrick Earl Gabriel Willie Daw Jennifer Chung Penn Christopher Huston					
LAW	5328	Judicial Externship I		3.000	0.000	In Progress	0.000
Instructor:		Derrick Earl Gabriel William Powers Kristina G Van Arsdel Carey Ann Worrell Anna M Archer					
				Attempted	Earned	GPA Units	Points
Term GPA		0.000	Term Totals	7.000	0.000	0.000	0.000

FA 2023

Program: **Law Professional**
Plan: **Law, JD Major**

Unofficial Transcript

Name: **Emily L Landry**
Student ID: **2026829**

Course		Description	Attempted	Earned	Grade	Points
LAW	5326	Criminal Procedure	3.000	0.000	In Progress	0.000
Instructor:		Derrick Earl Gabriel Timothy Shawn Braley				
LAW	5397	Selected Topics	3.000	0.000	In Progress	0.000
Course Topic:		Adv Drafting Corp Transactions				
Instructor:		Derrick Earl Gabriel Richard Allen Ginsburg				

			Attempted	Earned	GPA Units	Points
Term GPA	0.000	Term Totals	6.000	0.000	0.000	0.000
Law Career Totals						
Cum GPA:	3.463	Cum Totals	75.000	62.000	61.000	211.260

End of Unofficial Transcript

MANCHESTER 1824
The University of Manchester

University of Manchester

Unofficial copy of Academic Transcript

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MANCHESTER 1824
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Academic Transcript

Personal Details

Student ID:	7150526
Surname:	Landry
Forename(s):	Emily
Date of Birth:	26 June 1989
Level:	Undergraduate

Academic Programme History

Faculty:	Faculty of Medical & Human Sciences
School:	School of Psychological Sciences
Programme:	BSc(Hons) Psychology
Mode of Attendance:	Full Time
Registered on Programme:	17 September 2007
End Date:	11 June 2010

Degree Awarded

Degree:	Bachelor of Science with Honours
Subject:	BSc(Hons) Psychology
Classification:	Second Class, Division One
Date of Award:	25 June 2010

Undergraduate Taught Record

07/08 Year

Module Code	Module Title	Credits	Grade/Result
PSYC 10601	Group Working and Communication Skills	10	60
PSYC 10032	Introduction to Brain and Behaviour	10	81
PSYC 10500	Research Methods & Empirical Work (Labs)	50	65
PSYC 10101	Statistics and Research Design	10	64
PSYC 10321	Social Psychology,Health Psychology and Psychology of Mental Health	10	68
PSYC 10302	Perception & Cognition	10	55
PSYC 10142	Developmental and Evolutionary Psychology	10	78
PSYC 10900	Personal Study Module	10	60

08/09 Year

Module Code	Module Title	Credits	Grade/Result
MLPX 20022	Leadership in Action Unit	10	61
PSYC 20001	Statistics and Data Analysis	10	67
PSYC 20301	Developmental Psychology & Cognition	10	57
PSYC 20901	Personal Study Module I	10	80
PSYC 20331	Social Psychology, Psychology and Mental Health	10	65
PSYC 20042	Language and Communication and Perception	10	59
PSYC 20102	Conceptual and Historical Issues in Psychology	10	55
PSYC 20402	Cognitive Neuroscience	10	61
PSYC 20501	Individual Differences: Personality and Intelligence	10	83
PSYC 20100	Empirical Work and Research Methods	30	63